**Unit 1**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how the law of agency will enable the brokerage to function as a fiduciary entrepreneurship.
* Explain how the application of Article 12A and the rules and regulations (R&Rs) found in 19NYCRR, Parts 175 to 179, advances competence and trustworthiness.
* Explain the legal relationship between the sponsored licensee and the broker, how the licensee earns a commission when the licensee negotiates a “meeting of the minds” of the contract parties, and why licensees must exhibit critical thinking skills to ensure competence in the performance of real estate services for the public.
* Explain which legal business formation will enable the broker to operate a successful fiduciary entrepreneurship, best business practices that will secure a successful fiduciary entrepreneurship, how to develop and regularly revise a business plan to assure legal, ethical, and competent service, as well as business viability and client satisfaction, the required and complementary roles of the ancillary service providers (i.e., mortgage brokers, home inspectors, and appraisers), and the basic principles of economics and discuss what forces, presently in the market place, may positively or negatively affect real property values and to know how to mobilize resources to generate and participate in community debates about the effectiveness of such forces.

**KEY TERMS**

accountability

administrative discipline

agency

agency coupled with an interest

agency disclosure form

agent

antitrust laws

apartment information vendor

apartment sharing agent

Article 12-A

Article 78 proceeding

associate real estate broker

attorney-in-fact

blind ad

broker’s agent

broker price opinion (BPO)

brokerage dollar

business plan

buyer’s agent

change of association/record of association

client

commercial transaction

commingling

commission

confidentiality

cooperating agent

customer

denial

disclosure

dual agency

dual licensure

employees

escrow

estoppel

exempt

express agency

fair employment laws

fiduciary

fiduciary duties

first substantive contact

fraud

general agent

group boycott

home inspector

implied agency

independent contractor

informed consent

irrevocable consent

joint and several liability

kickback

latent defects

law of agency

listing agent

listing agreement

loyalty

market allocation

meeting of the minds

misdemeanor

misrepresentation

mortgage broker

mortgage banker

multiple listing service (MLS)

net listing

obedience

Parts 175 and 176

pocket card

policy and procedures guide

power of attorney

price-fixing

principal

procuring cause of sale

puffing

ratification

ready, willing, and able customer

reasonable care

registration

residential building

residential transaction

restraint of trade

revocation

seller’s agent

selling agent

self-dealing

special agent

subagency

subagent

suspension

termination

termination of association notice

tie-in arrangements

undisclosed dual agency

undivided loyalty

universal agent

**LECTURE OUTLINE**

**I. LAW OF AGENCY**

1. Parties involved
2. Types of agents
	1. Universal agent
	2. General agent
	3. Special agent
	4. Agency coupled with an interest
3. Creation of agency
	1. Express agency
	2. Implied agency
4. Agency and brokerage
	1. Compensation
	2. Importance of agency law to licensees
	3. Seller as principal
	4. Buyer as principal
	5. Broker as principal
	6. Basic agency relationships
		1. Compensation from more than one party in a transaction
		2. Dual agency
		3. Self-dealing

**II. FIDUCIARY RESPONSIBILITIES**

1. Fiduciary duties
	1. Care
	2. Confidentiality
	3. Loyalty
	4. Obedience
	5. Accounting
	6. Disclosure
2. Breach of fiduciary duties
3. Scope of authority
4. Agent’s responsibilities to other parties in the transaction
	1. Opinion versus fact
	2. Misrepresentations
	3. Environmental concerns
	4. Latent defects
	5. Stigmatized properties
	6. Megan’s Law
	7. Vicarious liability
5. Representation
	1. Exclusive right-to-sell listing
	2. Exclusive agency listing
	3. Open listing
	4. Other forms of listing agreements
		1. Exclusive right to lease
		2. Net listing
		3. Multiple listing
		4. The internet and multiple listing
6. Disclosure requirements
	1. First substantive contact
	2. New York agency disclosure requirements
	3. New agency disclosure law
	4. Signed acknowledgements

**III. AGENCY RELATIONSHIPS—ALTERNATIVES**

1. Subagency
	1. Brokerage without subagency
	2. Disclosure of subagency
2. Dual agency
	1. Informed consent
	2. Undisclosed dual agency
	3. Handling in-house sales
		1. Company policy
	4. Designated agent
3. Single agency
	1. Handling in-house sales
	2. Handling cooperative sales

**IV. THE BROKER’S COMPENSATION**

1. Salesperson’s compensation

**V. ARTICLE 12A AND A BRIEF REVIEW OF REAL ESTATE LICENSE LAW**

1. Who needs a license?
2. Other licenses and registrations
3. Who is exempt from licensing?
	1. Exceptions
4. Who does not need a license?
	1. Exceptions
5. Obtaining a license
	1. Classifications of license type
	2. Broker’s application
	3. Experience requirement
	4. Broker’s examination
	5. Issuing the license
	6. Change of business address, statute, or name
	7. Place of business
		1. Business name and sign
		2. Branch offices
6. Renewal of license
	1. Continuing education/formation of approved courses
7. Part 175
	1. 175.1 Commingling money of principal
	2. 175.2 Rendering account for client
	3. 175.3 Managing property for client
	4. 175.4 Broker’s purchase of property listed with him
	5. 175.5 Disclosure of interest to client
	6. 175.6 Broker’s sales of property in which he owns an interest
	7. 175.7 Compensation
	8. 175.8 Negotiating with party to exclusive listing contract
	9. 175.9 Inducing breach of contract of sale or lease
	10. 175.10 Broker’s offering property sales must be authorized
	11. 175.11 Sign on property
	12. 175.12 Delivering copy of instrument
	13. 175.13 Accepting services of another broker’s salesman or employee
	14. 175.14 Termination of salesman’s association with broker
	15. 175.15 Automatic continuation of exclusive listing contract
	16. 175.16 (repealed)
	17. 175.17 Prohibitions in relation to solicitation and unlawful discriminatory practice
	18. 175.18 Use of trade of corporate name
	19. 175.19 Net listing agreements
	20. 175.20 Branch offices
	21. 175.21 Supervision of salesman by broker
	22. 175.22 Ownership of voting stock by salesman prohibited
	23. 175.23 Records of transactions to be maintained
	24. 175.24 Exclusive listings—residential property
		1. Explanation
	25. 175.25 Advertising
		1. Additional requirements and exceptions
	26. 175.26 Posting of business signs
	27. 175.27 Disclaimer
8. Part 176
9. Part 177
10. Part 178
11. Part 179
12. Responsibilities of licensure
13. Suspension and revocation of licenses
	1. Investigation of complaint and hearing
	2. Penalties
	3. Appeal
	4. Revocation of broker’s license
	5. DOS determinations
	6. Broker’s responsibility to manage and supervise
	7. Screening and selecting licensees
		1. Opener
		2. Closer
		3. Opener and closer
	8. Training programs/procedures
	9. Supervision requirement
14. Employee status
	1. Common law employee, case law, and New York State
	2. Independent contractor status
	3. Tests of employment
	4. Broker employee/independent contractor income-reporting requirements
	5. Termination or changes in association
15. Unlicensed real estate assistants
16. Brokerages and the Americans with Disabilities Act

**VI. THE LEGAL RELATIONSHIP BETWEEN THE BROKER AND SPONSORED LICENSEE**

1. Operating a broker’s office in accordance with license laws
	1. Place of business
	2. Business name and sign
	3. Branch offices
	4. Maintaining documents
	5. Delivery of documents
	6. Care and handling of funds
	7. Obligations to other parties and other brokers
2. TILA/RESPA Integrated Disclosure (TRID)
3. Closing the transaction
	1. Where closings are held and who attends
	2. Broker’s role at closing
	3. Lender’s interest in closing
	4. Homeowners insurance
		1. Characteristics of homeowners packages
	5. Claims
	6. Federal Flood Insurance Program

**VII. CRITICAL SKILLS**

1. Market value expertise
2. Four characteristics of value
3. Other characteristics of real estate
	1. Economic characteristics
		1. Relative scarcity
		2. Improvements
		3. Permanence of investment
		4. Area preference
	2. Physical characteristics
		1. Immobility
		2. Indestructibility
		3. Nonhomogeneity
4. Paired-sales analysis
5. Sales comparison approach
6. Comparative market analysis
7. Buyer appeal
8. Market position
9. Assets and drawbacks
10. Area market conditions
11. Recommended terms
12. Market value range
13. The real estate agent’s role
14. Basic principles of value
15. Plottage
16. Contribution
17. Competition
18. Change
19. Cost approach

**VIII. BEST POSSIBLE TRANSACTION**

**IX. TYPES OF LEGAL STRUCTURE FOR A BUSINESS ENTITY**

1. Partnerships
	1. Partnership property
	2. Dissolution
2. Corporations
	1. How to create a corporation
	2. Management
	3. Terminating a corporation
3. S corporations
4. Limited liability companies and partnerships
	1. Termination

**X. BEST BUSINESS PRACTICES**

1. Proper insurance coverage
2. Errors and omissions insurance
3. Fire and hazard insurance
4. Business interruption
5. Contents and personal property
6. Liability
7. Casualty
8. Surety bonds
9. Commercial crime bond (fidelity bond)
10. Boiler and machine coverage
11. Claims
12. Written policy and procedures manual
13. Special required disclosures
14. Antitrust laws and penalties for violations
	1. Antitrust laws
	2. History
	3. Price-fixing
	4. Group boycott
	5. Market allocation
	6. Tie-in arrangement
	7. Penalties for violations
15. Escrow funds
	1. Location and timely deposit
	2. Reconciling the bank balance
16. Misrepresentation and fraud
	1. Opinion vs. fact
	2. Misrepresentations
	3. Commissions
	4. Disclosure of interest
17. Broker price opinion (BPO)
	1. The property facts
	2. Comments and conclusions
	3. Subject property photos of existing conditions
18. Strategies that create a safe environment
19. Advertising regulations
20. MLS and a third party
21. Interaction with other brokerage firms
22. DOS database
23. Financial management
24. Recordkeeping system and data security

**XI. DEVELOPING AND REGULARLY REVISING A BUSINESS PLAN**

1. Planning a new broker-owned brokerage
2. Identifying initial start-up costs and capital needs
	1. Estimating start-up capital requirements
3. Projecting income and expenses
	1. Creating monthly and annual budgets
	2. Operating expense control and planning
	3. Calculating the required number of transactions

**XII. ANCILLARY SERVICE PROVIDERS**

1. What is a mortgage broker?
	1. Mortgage broker vs. mortgage banker
	2. Debt financing
	3. Equity financing (mezzanine financing)
	4. Role of the mortgage banker
	5. Requirements and responsibilities of a mortgage broker
	6. Dual agency disclosure under the banking law
2. Home inspectors
	1. Licensing
3. Appraisers
	1. Licensing and certification
	2. Education requirements

**XIII. BASIC PRINCIPLES OF ECONOMICS**

1. Business value
2. Supply and demand
	1. Factors affecting supply
	2. Factors affecting demand
		1. Population
		2. Employment and wage levels
		3. Vacancy levels
		4. Interest rates
3. City/town council
	1. Village board of trustees
4. Adoption of budget and tax rate
5. Subdivision
	1. Planned unit development
	2. Planning board
	3. The master plan
	4. Zoning board of appeal
		1. Zoning variances
	5. Architectural review boards
	6. Wetlands
	7. Historic preservation/landmarks preservation
	8. Buildings department
	9. Planning department
	10. Tax assessor
	11. Receiver of taxes/treasurer
	12. City/town/village engineer
	13. Septic systems
6. Educating people
7. Motivating people

**XIV. SUMMARY**

**Unit 2**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how the security interest of a mortgage lien has served to encourage lenders (i.e., thrifts, investment banks, mortgage bankers, and private investors), through direct (a.k.a. retail) or wholesale lending, to aggressively participate in the real property market of the United States.
* Explain how mortgaged money is made available through different loan products, why it is stronger, weaker or steady at times, and how the money supply impacts demand for properties.
* Explain how the secondary market works, when and why it began, and when and why the primary market participation in the secondary market seriously began, and how the U.S. economic system functions in relation to the real estate market.

**KEY TERMS**

acceleration clause

adjustable-rate mortgages

alienation clause

amortization

amortized loans

balloon/balloon mortgages

blanket mortgages

bond

bridge loan

bullet loan

construction loans

conventional loans

convertible mortgage

Department of Veterans Affairs (VA)

depressions

discount points

disintermediation

due-on-sale clause

equity stripping

Federal Reserve

Federal Housing Administration (FHA)

federally related transaction

FHA loans

fixed-rate mortgage

gap financing

graduated payment mortgage

ground lease

home equity loan

hypothecation

imputed interest

index

inflation

interest

interest-only mortgages

joint venture

land contract/installment sale contract/contract for deed

lien

lien theory

margins

mini-perm loan

mortgage

mortgagee

mortgagor

mortgage-backed security

mortgage value

negative amortization

nonconventional loans

notes

predatory

primary mortgage market

prime

principal

private mortgage insurance (PMI)

purchase money mortgage (PMM)

recessions

release clause/partial release clause

sale-leasebacks

secondary mortgage market

securitization

stagflation

State of New York Mortgage Agency (SONYMA)

subordinate

subprime

takeout loan

title theory

trust deed/deed of trust

underwriting

usury

variable-rate loan

wraparound mortgage

**LECUTRE OUTLINE**

**I. MORTGAGE DOCUMENT AS A LEGAL DOCUMENT**

**II. TITLE THEORY VS. LIEN THEORY**

1. Origin of the mortgage
2. Title theory
	1. Foreclosure process
3. Lien theory
	1. Notes/bonds

**III. THE MORTGAGE**

1. The note vs. the mortgage
2. Risk management
	1. Debt-to-income rations
	2. Loan-to-value ratios
3. Full, low, and no documentation loans
4. Residential and commercial loans
5. Foreclosures
6. Mortgage value
7. Equity stripping
8. Advantages and disadvantages of various mortgage loans
	1. Methods of payments
		1. Interest-only payment loans
		2. Partially amortized payment loans
		3. Fully amortized payment loans
9. Home mortgages—nonconventional and conventional loans
10. Types of mortgages
	1. Short-term/temporary loans
	2. Fixed-rate loan
	3. Adjustable-rate mortgage (ARM)
		1. Index
		2. Margin
	4. Variable-rate loan
	5. Prime
	6. Subprime
	7. Predatory
	8. Graduated payment loan
	9. Nonconventional loans
		1. FHA-insured loans
			1. FHA 203(b)
			2. Owner-occupants
			3. Mortgage insurance premium
			4. Estimate of value
			5. Loan limits
			6. Repairs
			7. Assumability
			8. Refinancing
			9. Other FHA programs
		2. VA loans
			1. Eligibility
			2. Assumability
			3. Refinancing
	10. Purchase money mortgage (PMM)
	11. Commercial loans
		1. Gap loans/mortgages
		2. Bullet loans
		3. Miniperm loan
		4. Wraparound loan
		5. Blanket mortgage
		6. Subordinate loan/subordination
		7. Sale-leasebacks

**IV. GROUND LEASES/LONG-TERM LEASHOLD ESTATE**

1. Subordinate lease
2. Sale-leaseback agreements
3. Essential clauses
	1. Acceleration clause
	2. Alienation/due-on-sale clause
	3. Prepayment clause
4. Mortgage brokers and mortgage bankers
	1. Mortgage brokers
	2. Mortgage bankers

**V. BROKERS’ ISSUES IN REAL ESTATE FINANCE**

1. Commercial financing
2. Mortgage funds and different loan products
	1. Package loans
	2. Open-end mortgages
	3. Reverse annuity mortgages
	4. Interest-only and optional payment mortgages
	5. Land contracts
	6. Sale-and-leaseback arrangements
	7. Construction loans
		1. Application for a construction loan
		2. Loan amount
		3. Disbursement of funds
3. Influences affecting capital markets and the availability
4. Influence of the federal government
	1. Federal Reserve System
	2. Influence of lending policies
	3. Foreign demand for U.S. Treasury bills
	4. Employment rates, wages, and debt obligations of the American consumers
	5. Investment vehicles
	6. The Federal Reserve and its monetary interventions
	7. Secondary market operations and the economic system functions
		1. 1934
		2. 1938
		3. 1954
		4. Late 1960s
		5. 1970
		6. 1989
		7. 1997
5. Economy and real estate cycles
	1. Economic influences
	2. Influence of individuals
	3. Employment rates and wages
	4. Stock market
	5. Valuation
	6. Affordability

**VI. SUMMARY**

**Unit 3**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain why investing in real estate has become a customary way for wealth accumulation in the U.S. economy.
* Explain how correctly performed income approaches to value will help licensees assess the strengths and weaknesses of investment properties and, thereby, provide competent and trustworthy guidance to their investor clients.
* Explain how to measure and evaluate the financial viability of a particular investment property.

**KEY TERMS**

adjusted basis

after-tax cash flow (ATCF)

annuity capitalization rate

appreciation

basis

before-tax cash flow (BTCF)

boot

built-up rate

business risk

capital gain

capital loss

capitalization rate

capital risk

cash breakeven ratio

cash-on-cash return

cost recovery

debt service coverage ratio

debt service

depreciation

depreciable basis/book value

discounted cash-flow analysis

discounting

discount rate

dynamic risk

effective gross income (EGI)

effective gross income multiplier (EGIM)

equity dividend rate

exchange

fixed expenses

general partnership

gross rent multiplier (GRM)

gross income multiplier (GIM)

holding period

inflation hedge

installment sales

leverage

limited liability companies (LLCs)

limited liability partnerships (LLPs)

limited partnership

liquid/liquidity

loan-to-value ratio

long-term gains

margin of safety

marginal tax rate

mortgage debt service

negative cash flow

net operating income (NOI)

net operating income multiplier (NOIM)

operating expenses

operating statement

other income

passive income

potential gross income (PGI)

potential gross income multiplier (PGIM)

pro forma statements

pyramid

rate of return

real estate investment

reserves

risk assessment

real estate investment trusts (REITs)

real estate mortgage investment conduit (REMIC)

reserves for replacements

return

reversion

Section 1031 property exchange

short sales

short-term gains

silent partners

straight-line depreciation

static risk

syndicate

tax basis

tax credit

tax-deferred/like-kind

tax shelter

time value of money

vacancy and collection loss

variable expenses

**LECTURE OUTLINE**

**I. THE NATURE OF THE REAL ESTATE INVESTMENT**

1. Real property as a hedge against inflation
2. Risk management
	1. Risk
	2. Liquidity
	3. Leverage
3. Tax shelter (tax deferred)
4. Limited disadvantages
5. Implementation

**II. HOLDING PERIOD AND REVERSION**

**III. TYPES OF INVESTMENT PROPERTIES**

**IV. INVESTMENT ANALYSIS TECHNIQUES**

1. Discounted cash-flow analysis

**V. INVESTMENT OWNERSHIP STRUCTURE**

1. Forms of syndicates
2. Real estate investment trusts
	1. Equity trusts
	2. Mortgage trusts
	3. Combination trusts
3. Real estate mortgage investment conduits

**VI. PREPARING TO BE AN INVESTOR**

1. Start small
2. Avoid vacant land
3. Income analysis

**VII. MEASURING AND EVALUATING THE FINANCIAL VIABILITY OF INVESTMENT PROPERTY**

1. Risk and reward
2. Built-up rate

**VIII. ANALYZING PROPERTY INCOME**

1. Acquisition
2. Current rent roll
3. Pro forma statements
	1. Step 1: Income analysis
	2. Step 2: Operating expense analysis
4. Net operating income/leverage and capitalization
5. Deriving the before-tax cash flow
6. Deriving the after-tax cash flow
7. Pro forma statements—depreciation
	1. Depreciation and the calculation of a property’s depreciable basis
		1. Physical deterioration
		2. Functional obsolescence
		3. External obsolescence
	2. Straight-line depreciation method
	3. Recovering periods
	4. Calculating the depreciable basis
	5. Calculating taxable income
	6. Calculating the gain or loss

**IX. INCOME TAX CONSIDERATIONS**

1. Depreciation
2. Depreciation: income tax issues
3. Capital gains

**X. TAX CUTS AND JOBS ACT OF 2017**

1. Long-term capital gains tax
2. Standard deduction
3. Personal exemptions
4. Health care
5. Inflation gauge
6. Deductions/family child tax credits
7. Head of household
8. Itemized deductions

**XI. A BRIEF OVERVIEW OF THE TAX REFORM ACT**

1. Corporate tax rate
2. Pass-through income
3. Treatment of interest
4. Basis

**XII. LIKE-KIND EXCHANGES (IRS SECTION 1031 EXCHANGES)**

1. Exchanges
2. Section 1031 (like-kind) exchange
3. Tax credits
4. Installment sales
5. Calculating multiplier ratios
	1. Potential gross income multiplier (PGIM)
	2. Effective gross income multiplier
	3. Net operating income multiplier
	4. Gross income multiplier (GIM)/gross rent multiplier
6. Calculating income property ratios
	1. Equity dividend rate
	2. Loan-to-value ratio
	3. Debt service coverage ratio (DSCR)
	4. Operating expense ratio
	5. Cash breakeven ratio
	6. Margin of safety

**XIII. SUMMARY**

**Unit 4**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how laws are promulgated at different government levels—namely, federal, state and local— and how these laws are enforced and with what priority.
* Explain the nature and intent of the Uniform Commercial Code (UCC), how negotiable instruments are made negotiable, how and why different means of dispute resolution may be used.
* Explain how federal bankruptcy laws and NYS exemptions may affect the sale of real property, how estate and gift taxes may affect real property transfers, how marital property and subsequent litigations affect real property value and transfers, and how the various NYS Statutes of Limitation affect real property value and transfers.

**KEY TERMS**

administrative law

administrator

arbitration

bankruptcy

case law

chattel

civil law

commercial law

commercial paper

common law

constitutional law

contract law

corporation law

criminal law

deed restriction

Dodd–Frank Wall Street Reform and Consumer Protection Act

due process

endorsement

executor

financing statement

fixture

injunction

laches

law of agency

litigation

lis pendens

marital property

mediation

negotiable instruments

personal property

personal property law

real property

real property law

security agreement

secured creditor

small claims courts

statute of limitations

statutory law

torts

trustee

trusts and wills

Uniform Commercial Code (UCC)

unsecured creditor

 **LECTURE OUTLINE**

**I. RATIONALE, SCOPE, AND ENFORCEMENT OF FEDERAL LAWS AFFECTING REAL PROPERTY TRANSACTIONS**

1. The federal court system
2. Common law
3. Federal laws affecting real property transactions

**II. RATIONALE, SCOPE, AND ENFORCEMENT OF NEW YORK STATE LAWS AFFECTING REAL PROPERTY TRANSACTIONS**

1. New York court system
	1. Substantive and procedural law
	2. Civil law
2. Agency disclosures
3. Signed acknowledgments
4. Agency relationships in New York
	1. Exclusive right to sell/lease
	2. Exclusive agency
	3. Open listing
5. Agricultural districts disclosure
6. Interest-bearing escrow accounts (residential security deposits)
	1. Time frame

**III. RATIONALE, SCOPE, AND ENFORCEMENT OF LOCAL LAWS AFFECTING REAL PROPERTY TRANSACTIONS**

1. Local laws affecting real property transactions

**IV. NATURE AND INTENT FOR THE UNIFORM COMMERCIAL CODE (UCC)**

1. Real and personal property differences
	1. Personal property and its involvement in real estate transactions
2. Uniform Commercial Code (UCC)

**V. THE NEGOTIABILITY OF NEGOTIABLE INSTRUMENTS**

1. Promissory notes
2. Drafts
3. Checks
4. Certificates of deposit (CDs)
5. Requirements
	1. Writing
	2. Signed
	3. Promise
	4. Specific sum
	5. Demand or time
6. Endorsement
7. Holder in due course
8. Defenses
9. Alternative dispute resolution
	1. Arbitration
	2. Mediation
	3. Litigation

**VI. FEDERAL BANKRUPTCY LAWS AND NEW YORK STATE EXEMPTIONS**

1. Chapter 7
2. Chapter 11
3. Chapter 13
4. Secured and unsecured creditors
	1. Secured creditors
	2. Unsecured creditors
5. Bankruptcy party’s assets
6. Estate and gift taxes
7. Divorce in New York
	1. Equitable distribution

**VII. STATUTE OF LIMITATIONS**

**VIII. DEED RESTRICTIONS**

1. Enforcement

**IX. SUMMARY**

**Unit 5**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how agencies at various government levels regulate and oversee construction standards in order to protect and benefit the public, how these construction standards affect precontract building and real property transactions, how building science advances have affected the utility of real property and how, at times, the market will prefer character and historical significance over utility, and how the “modified” role of licensed home inspectors can be a practical means of ensuring and initiating the application of the new home warranty from the builder.
* Explain how the NYS constitutional provision for “home rule” affects subdivisions and developments and how to determine project absorption rates in specific markets.
* Explain the requirements for the development and subsequent offering of newly constructed or newly converted condominiums and/or cooperatives.

**KEY TERMS**

board of directors

board of managers

bylaws

common elements

conversions

covenants, conditions, and restrictions (CC&Rs)

curvilinear system

declaration

density zoning

Department of Environmental Conservation (DEC)

developer

disclosure statement

 environmental impact studies

eviction plan

floor plan

gridiron pattern

hard costs

HVAC

impact fees

initial pricing

Interstate Land Sales Full Disclosure Act

noneviction plan

planned unit development (PUD)

planning boards

plat of subdivision

preliminary prospectus/ red herring

proprietary lease

public offering

reserves

roof plan

site plan

soft costs

sponsor

subdivider

subdivision

subsequent pricing

time-sharing

town house

wetland survey

zoning ordinances

**LECTURE OUTLINE**

**I. CONSTRUCTION STANDARDS**

1. Federal agencies
2. State agencies
3. Regional agencies
4. Cities (New York City)
5. Counties
6. Local municipalities

**II. LAND-USE REGULATIONS**

1. Use groups
	1. Transferring unused development rights/air rights
2. Eminent domain
3. Nonconforming use
4. Spot zoning
5. Division of Building Standards and Codes (BSC)
6. Where to find construction standards
7. Compliance and noncompliance

**III. BUILDING INSPECTIONS**

1. Building plans and specifications
2. Historic preservation/landmarks preservation
3. Buyer preferences as markets change
4. Financial limitations and practicalities

**IV. HOME INSPECTOR LICENSING LAW**

**V. THE ROLE OF THE REAL ESTATE AGENT**

**VI. SUBDIVISION**

1. Restrictions on land use
2. Building codes
3. Interstate Land Sales Full Disclosure Act
4. New York State subdivided land sales law
5. Environmental regulations
	1. New York State Environmental Quality Review Act (SEQRA)
	2. Department of Environmental Conservation
6. Value of land for subdivision
7. Cost and financing

**VII. RESTRICTIVE COVENANTS**

1. Enforcement of deed restrictions
2. Types of subdivisions and subdivision density
	1. Street patterns
	2. Clustering for open space

**VIII. ABSORPTION RATES**

1. Gathering and interpreting market data

**IX. CONDOMINIUMS**

1. Selling condominiums

**X. COOPERATIVE OWNERSHIP**

**XI. CONDOMINIUM/COOPERATIVE CONSTRUCTION AND CONVERSION**

1. Conversion restrictions
2. Initial and subsequent unit/stock pricing
3. Temporary certificates of occupancy
4. New home warranty

**XII. TOWN HOUSES, PUDs, AND TIME-SHARING**

**XIII. SUMMARY**

**Unit 6**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how legal procedures that effect voluntary and involuntary transfers can impact real property values.
* Explain how real property is conveyed during the grantor’s life and at and after the grantor’s death.

**KEY TERMS**

accretion

adverse possession

appurtenant

area preference

avulsion

by operation of law

condemnation

dedication

demand

dominant estate

easement

easement by condemnation

easement by grant

easement in gross

easement for light and air

easement by necessity

easement by prescription

economic oversupply

erosion

foreclosure

gift

grant

inter vivos trust

intestate

irrevocable trusts

nonpossessory rights

oversupply

partition

party walls

permanence of the investment

possessory rights

real estate investment trust (REIT)

reversionary interest

sale

scarcity

servient estate

situs

tacking

technical oversupply

testate

transferability

utility

**LECTURE OUTLINE**

**I. CHARACTERISTICS OF VALUE**

1. Economic characteristics of value
2. Physical characteristics of value
3. Four characteristics of value

**II. TRANSFERABILITY**

1. Voluntary transfers
	1. Transfers during life
	2. Transfers after death
2. Involuntary transfers
	1. Transfers during life
	2. Transfers after death
3. Natural processes

**III. SUMMARY**

**Unit 7**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain the functions and responsibilities of the property manager and the primary responsibilities of real estate management positions, including site manager, property manager, portfolio manager, and asset manager; how licensees will provide competent and trustworthy property management services by improving and/or preserving the physical property (i.e., its envelop and mechanicals), while improving the property’s net operating income.
* Explain rent types and lease clauses.
* Explain how a comprehensive understanding of a property’s income and expense statement provides a template for delivering competent and trustworthy property management services.

**KEY TERMS**

anchor stores

boiler and machinery insurance

business interruption insurance

capital expenses

capital reserve budget

casualty insurance

Certified Property Manager® (CPM)

contents and personal property insurance

corrective maintenance

cumulative

Division of Housing and Community Renewal (DHCR)

economic oversupply

fiduciary

fire and hazard insurance

general agent

household income

industrial property

lessee

lessor

liability insurance

management agreement

management proposal

market analysis

maximum base rent (MBR)

multiperil policies

neighborhood analysis

office property

operating budget

planned unit development

preventive maintenance

property analysis

property maintenance

property management reports

property manager

regional analysis

rent control

rent roll

rent stabilization

replacement cost

residential property

retail property

risk management

Section 8

security deposit

stabilized budget

surety bonds

technical oversupply

tenancy for years

variable expenses

workers’ compensation acts

**LECTURE OUTLINE**

**I. PROPERTY MANAGEMENT**

1. Property manager
	1. Operations
	2. Financial reporting

**II. REAL ESTATE MANAGEMENT**

1. Site manager
2. Property manager
3. Portfolio manager
4. Asset manager
5. Responsibilities

**III. PROPERTY MANAGEMENT SERVICES**

1. Property condition and risk
2. Claims
3. Risk and capitalization (CAP) rate
	1. Capitalization rate and value
4. Increase new operating income (NOI)

**IV. RENT TYPES AND LEASE CLAUSES**

1. Setting rental rates
2. Negotiating leases
3. Concessions
4. Tenant options
5. Standard clauses
6. Rental vs. usable area
	1. Rentable area
	2. Usable area
	3. Loss factor

**V. A PROPERTY’S INCOME AND EXPENSE STATEMENT**

1. Deriving the net operating income (NOI)
	1. Step 1: Income analysis
	2. Step 2: Operating expense analysis

**VI. PLANNING AND BUDGETING**

1. Market analysis
	1. Regional analysis
	2. Neighborhood analysis
	3. Property analysis
	4. Owner objectives
2. Budgeting

**VII. MARKETING**

1. Marketing activities
	1. Advertising
	2. Selecting tenants

**VIII. MANAGING LEASES AND TENANT RELATIONS**

1. Renting the property
2. Residential property
3. Commercial property
	1. Bas year
	2. Tenant proportionate share
4. Operating/real estate tax stop
5. Real property tax clause
6. Direct operating escalation clause
7. Porter’s wage rate escalation formula
8. Penny-for-penny
9. Fringe benefits
10. Fixed percentage increases
11. Consumer Price Index (CPI)
12. Medical offices/medical office building
13. Retail property
14. Industrial property
15. Hotels
16. Residential leases
17. Creating effective strategies
18. Creating effective programs
19. Excessive tax assessment
20. Operating capitalized and stabilized budgets
21. Fair housing and ADA laws
22. Functioning and energy consumption
23. Various building codes
24. Manager’s obligations to the owner
	1. Goals
	2. Maintenance
	3. Criteria, future of the project, and reporting
25. Environmental laws
26. Emergency plans

**IX. THE MANAGEMENT AGREEMENT**

1. Other property management considerations
	1. Collecting rends
	2. Tenants’ rights
	3. Mobile home parks
	4. Hiring employees vs. contracting services

**X. SKILLS REQUIRED OF A PROPERTY MANAGER**

**XI. THE MANAGEMENT FIELD**

**XII. RENT REGULATIONS**

1. Rent control
2. Rent stabilization
3. Luxury decontrol

**XIII. SUMMARY**

**Unit 8**

**Lecture Outline**

Learning Objectives

When the student has completed this unit, they will be able to accomplish the following.

* Explain how governmental “forces” (i.e., one of the four “forces” that impact value), especially property taxes, impacts market value of real property.
* Explain why frequently there is a difference between market and assessed values, why there is an equalization rate and how it is derived and applied, why there are assessment exemptions, whether full or partial, to what tax they apply and how to determine the true tax, and how PILOT programs and special property tax abatements or incentives affect market value of properties.
* Explain the need for research and discussion concerning the feasibility of consolidation of government services.

Key Terms

ad valorem taxes

aged exemption

appropriation

assessed value

assessment roll

assessments

equalization factor

full-value assessment

grievance

homestead

in rem

levy

market value

mill

nonhomestead

principle, interest, taxes, and insurance (PITI)

real property tax rates

statutory redemption period

taxable status date

tax certiorari

tax foreclosure

tax liens

tax sale

true tax

Lecture Outline

**I. PROPERTY TAX**

1. Tax liens
2. General tax (ad valorem tax)
3. Special assessments (improvement taxes)
4. Principle, interest, taxes, and insurance (PITI)

**II. THE TAXATION PROCESS**

1. Assessment
	1. Differences in assessments
	2. Undeclared improvements
	3. Reassessment and the sale of property
	4. Equalization
	5. Tax rates
2. Appropriation
	1. Tax bills
3. Exemptions
	1. Personal exemptions
	2. Elderly exemption
	3. Veterans exemption
	4. STAR program
	5. Cooperative/condominium abatement (New York City)
	6. Disabled crime victim and Good Samaritan exemption
	7. True tax
4. Protesting assessments
5. Enforcement of tax liens
	1. County tax sales
	2. Village tax sales
6. PILOT programs, special property tax abatements, or incentives

**III. THE NEED FOR RESEARCH**

1. Gathering and interpreting market data
2. Feasibility of consolidation of government services

**IV. SUMMARY**

**Unit 9**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how an integrated society sustains and advances real property values.
* Explain how institutionalized discrimination, especially within lending sources, continues to underwrite and sustain segregated communities.

**KEY TERMS**

caregiver

citizenship

domestic partner

duplex building

inconsistent services

injunction

lawful occupation

policy and procedures manual

vicarious liability

**LECTURE OUTLINE**

**I. HOW AN INTERGRATED SOCIETY SUSTAINS AND ADVANCES REAL PROPERTY VALUES**

A. Introduction - License law and guidance regarding prohibited discriminatory practices

1. New Department of State regulation - discriminatory practices

**II. PROTECTED CLASSES**

1. Protected classes in New York State
	1. Age
	2. Creed
	3. Race
	4. Religion
	5. Color
	6. Sex
	7. Sexual orientation
	8. National origin
	9. Marital status
	10. Domestic violence victim status
	11. Disability
	12. Military status
	13. Familial status (persons with children under the age of 18)
	14. Gender identity
2. Diverse society
	1. Areas containing diverse groups of residents will generally produce at a minimum:
3. economic growth
4. sustained property values
5. cultural contributions
	1. Contributing factors to this statement can be found in some of the following areas and activities of a local economy:
		1. As skilled labor
		2. As consumers
		3. As owners of new business or trades
6. Licensees must be familiar with and aware of all fair housing and human rights laws. This includes understanding and identifying the differences in:
	1. Federal fair housing laws
	2. New York Human Rights Law
	3. Local housing laws
	4. Civil Rights Act of 1866—race (with no exceptions)
	5. Federal Fair Housing Act of 1968—race, color, creed, religion, national origin
	6. Community Development Act of 1974 (amendment to 1968 law)—sex or gender
	7. Fair Housing Amendment Act of 1988—familial status and disabilities (physical and mental)
7. Protected classes that are covered under the New York Executive Law (but NOT included under the Federal Fair Housing laws):
8. Age
9. Sexual orientation
10. Military status
11. Marital status (some exceptions)
12. Federal exceptions: Fair housing, fair lending and ADA laws
	1. The sale or rental of a single-family home is exempted when the home is owned by an individual who does not own more than three such homes at one time and when the following conditions exist:

a) a broker, salesperson, or agent is not used (real estate licensees); and

b) discriminatory advertising is not used. Only one such sale by such an individual is exempt from the law within any 24-month period.

* 1. Under the federal laws, the rental of units is exempted in an *owner-occupied one- to four-family dwelling* (but again, discriminatory advertising and the services of a real estate licensee may not be used).
		1. However, New York State fair housing laws are more restrictive. The state restricts this exemption only to a duplex (defined as a two-family home) property where the owner or a member of the owner’s family resides in the other unit.
	2. Dwelling units owned by *religious organizations* may be restricted to people of the same religion, if membership in the organization is not restricted on the basis of race, color, national origin, handicap, or familial status
	3. A *private club* that is not in fact open to the public may restrict the rental or occupancy of lodgings that it owns to its members, as long as the lodgings are not operated commercially
1. State exceptions: Fair housing, fair lending, and ADA laws
	1. Public housing that may be aimed at one specific age group
	2. Restriction of all rooms rented to members of the same sex
	3. Rental of a room in one’s own home
	4. Restriction of rentals to persons 55 years of age or older
2. Policy and procedures manual
3. Crafting and providing a policy and procedures manual that describes and directs the licensee as to day-to-day activities and establishes consistent rules of activity commensurate with the organization; the manual should direct the licensee as to how the brokerage achieves compliance with all federal and state housing laws
4. Ask the licensee to sign an agreement that says:
	* 1. I have received the manual on (include a date)
		2. I have reviewed the manual and understand what I read
		3. I have reviewed the manual and agree with the policies and agree to practice within the framework of what the manual prescribes in conjunction with all state and federal laws

**III. FAIR HOUSING LAWS**

1. New York Executive Law
2. Commercial real estate
3. Recognizing and resolving discriminatory situations

**IV. PROHIBITED ACTS**

1. Threats or acts of violence
2. Americans with Disabilities Act of 1992
3. New York City Human Rights Law coverage
	1. Discriminatory harassment
	2. Housing
	3. Public accommodations
	4. Retaliation
	5. Employment
	6. Bias based profiling by law enforcement
	7. Additional protected classes under the NYC Human Rights Law include:
		1. Race
		2. Religion/creed
		3. Color
		4. National origin
		5. Sex/gender (includes sexual harassment)
		6. Gender identity
		7. Disability
		8. Age
		9. Alienage or citizenship status
		10. Sexual orientation
		11. Pregnancy
		12. Marital and partnership status
		13. Lawful occupation
		14. Lawful source of income
4. Nonsolicitation order
5. Blockbusting
6. Steering
7. Redlining
	1. Summary of recent redlining cases
8. Locally established protected classes
9. Sexual Orientation Non-Discrimination Act (SONDA)
	1. Protections under the act
	2. Enforcement
10. Institutional discrimination within lending sources
11. How individual belief systems make it difficult in achieving the intent of fair housing, fair lending, and ADA laws
12. Putting it to work
13. Contemporary fair housing and accessibility cases
	1. Case 1
	2. Case 2
	3. Case 3
	4. Case 4

**V. SUMMARY**

**Unit 10**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain the importance of a user-friendly confidentiality agreement that will facilitate an open discussion and exchange among clients and their brokers in order to structure the best possible transactional agreement that is mutually beneficial to the parties.
* Explain that not all transaction analyses end in transactional agreements and wants must be differentiated from needs, how the considerations of the client and the customer (other party) are the primary driving forces in the formation of a transactional agreement, and how the nature of financing and the financial resources of the parties are subject to change.
* Explain how the broker must be able to identify and explain the many viable factors, including how each could play a part in designing and achieving a transactional agreement, and the importance of discussion, dialogue, and conferencing between and among the parties and their representatives.
* Explain that the overall objective is to reach a transactional agreement on fair terms within a reasonable period of time, that a sense must be created that the other party understands and tries to address the concerns of the broker’s client, that the broker must always represent the best interests of the client, that the primary objective of the broker must be to reach a transactional agreement without sacrificing the interests of the client simply to achieve an agreement, and that, if the dual objectives of both parties are prudently addressed by their brokers, the prospects of the individual considerations of each party being folded into a mutual interest of achieving a transactional agreement are considerably enhanced.

**KEY TERMS**

accountability

care

confidentiality

confidentiality agreement

full disclosure

highest and best use

indemnification

loyalty

maintenance

market value

mortgage contingency clause

negotiation

neighborhood analysis

nondisclosure agreement (NDA)

obedience

property analysis

regional analysis

seller concessions

site specific analysis

structural

tenant broker

transactional agreement

vicarious liability

**LECTURE OUTLINE**

**I. CONFIDENTIALITY AGREEMENT**

A. Facilitates an open discussion and exchange with clients and their brokers

B. The inclusion of the fiduciary duty of confidentiality opens the way for necessary incorporation of the other agency duties, especially reasonable care and loyalty

C. A client (a person that hires the broker) is owed the following fiduciary duties (a good pneumonic memory device would be CCLOAD):

1. Care – the licensee must use care and all skills and knowledge to obtain the best terms for the client

2. Confidentiality – the licensee must keep the confidence of the client

3. Loyalty – placing the interests of the client above those of all others, including the licensee’s

4. Obedience – obey the legal and reasonable instructions of the client

5. Accountability – the broker will account for all funds belonging to others and entrusted in the broker’s possession

6. Full disclosure – the licensee must disclose all transaction facts to the client

1. What must be included in the confidentiality agreement to make it user friendly:
	1. Registration and compensation
	2. Address the scope of what is proprietary information
	3. Limitations on what may be considered proprietary or confidential information
	4. Use of the proprietary or confidential information
	5. Reproduction of the proprietary or confidential information
	6. Concerning the proprietary or confidential information, this section may deal with the duty of care
	7. The term of the confidentiality agreement
	8. Ownership of the proprietary or confidential information
	9. In the event the buyer breaches the agreement, this section may discuss the possibility of irreparable damage the seller could experience and that a restraining order and/or an injunction will be placed to enjoin disclosure of the proprietary or confidential information
	10. Language of disclaimer and may discuss that the sale and property condition is “as is”
2. It includes general information such as:
	* 1. that the agreement is governed under the laws of the state where the property is located
		2. a merger paragraph that states that the entire agreement is represented by the proprietary or confidential agreement
		3. that the agreement cannot be amended unless it is writing
		4. other general legal language that may apply to the confidentiality agreement

**II. TRANSACTION ANALYSIS**

1. The purpose of transaction analysis and designing to achieve a transactional agreement
2. Principles of application
	1. Seller
	2. Buyer
	3. Landlord
	4. Tenant
3. Not all transaction analyses end in transactional agreements
4. Wants vs. needs

**III. INDIVIDUAL CONSIDERATIONS**

1. Seller
2. Buyer
3. Tenant
4. Estimating market value is not an exact science while estimating a range of value is necessary. Some of those value considerations include but are not limited to:
	1. Market value – the most common form of valuation, the value obtained by what an informed buyer would be willing to pay and an informed seller, under no duress would be willing to accept
	2. Assessed value – for the purposes of municipal property taxation
	3. Insurance value – in case of loss, value for the purposes of insuring an item for replacement
	4. Salvage value – the value of property improvements that have come to the end of their economic life
	5. Liquidation value – the value that can be derived from a forced or hurried sale.
	6. Value in use – the value of a property whose current use does not reflect the highest and best use of that property
5. Valuation steps
6. Financing and the financial resources
	1. Fluidity of financial market conditions
	2. Limitations based on financial latitudes of each party

**IV. DUAL OBJECTIVES**

1. Creating a sense that the other party understands and tries to address the concerns of the broker’s client
2. The broker must always represent the interests of the client
3. The primary objective of the broker must be to reach a transactional agreement without sacrificing the interests of the client simply to achieve an agreement
4. If the dual objectives of both parties are prudently addressed by their brokers, the prospects of the individual considerations of each party being folded into a mutual interestof achieving a transactional agreement are considerably enhanced

**V. TRANSACTION AGREEMENT**

A. Completing the transaction analysis should produce a transactional agreement

B. Price

C. Occupancy

D. Appraised vs. market value

1. Timing considerations
2. Financial positions of each party
3. Stacking of contingent sales
4. Multiple offers
5. Interest rate deadlines
6. Lawyer’s unconditional approval
7. Home inspection corrections
8. Seller concessions
	1. FHA loans
	2. VA loans
	3. Conventional loans
9. Others
10. How important are discussion, dialogue, and conferencing between and among the parties and their representatives?
11. Listening skills
12. Communicating an “agreement attitude”
13. The value of molding an agreement that is bilaterally beneficial (i.e. a win-win agreement)

**VI. SUMMARY**

**Unit 11**

**Lecture Outline**

**LEARNING OBJECTIVES**

When the student has completed this unit, they will be able to accomplish the following.

* Explain how local issues and concerns impact property values.

**KEY TERMS**

abutting

Affordable New York Housing Program (formally the 421A)

air rights

Article 78

assessed value

ad valorem

census tracts

cluster zoning

condemnation

demography

dynamic event

eminent domain

escheat

family units

group home

Industrial Commercial Incentive Program (ICIP)

infrastructure

J-51 tax exemption and abatement program (J-51)

lot merger

master plan

prevailing wage

police power

setbacks

special assessment

static event

surveys

taking

target assessment

taxation

zoning ordinances

**LECTURE OUTLINE**

**I. LOCAL ISSUES AND CONCERNS**

1. Housing
2. Government systems, services, and controls
	1. Taxation
		1. Protesting assessments
	2. Public land-use controls
		1. The master plan
		2. Zoning
		3. Accessory building/use
		4. Nonconforming use
		5. Zoning variations
		6. Spot zoning
		7. Building codes
		8. Subdivision regulations
		9. Development rights
		10. Environmental protection legislation
		11. Wetlands
		12. Landmark preservation
3. Tax abatement programs
	1. Industrial Commercial Incentive Program (ICIP)
		1. Improvement requirements
		2. Eligibility limitations
	2. J-51 tax exemption and abatement program (J-51)
	3. Affordable New York Housing Program (formerly 421A)
		1. Affordability Option A
		2. Affordability Option B
		3. Affordability Option C
		4. Enhanced 35-Year Benefit
	4. Real estate professionals

**II. SUMMARY**