



# PRINCIPLES

# 房地產原理

中英對照教材

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# Chap 1

## Real Property and Personal Property

# Summary

- What is **Real Property**?
  - ✓ 什麼是不動產?
- What is **Personal Property**?
  - ✓ 什麼是動產?
- How to separate the differences between **Real Property** and **Personal Property**.
  - ✓ 怎麼分辨不動產與動產之間的差別?
- How a **Personal Property** becomes a **Real Property**?
  - ✓ 動產在何種情況下會變成不動產
- What are the measurement methods of land descriptions in Real Estates?
  - ✓ 如何測量土地

I. **Property** – Rights & interests that a person has in the thing owned.

✓ 財產 - 一個人所擁有的權利跟利益

1. Property is also known as “**bundle of rights**”, which include
  - a. **Possession** – The right to occupy, lease the property or prohibit others to enter the property.
    - 擁有財產權 – 權力去居住, 租, 或者拒絕他人進入你的土地.
  - b. **Enjoyment** – The right to occupy the property without other’s intrusion.
    - 享用權 – 享有不受他人打擾的居住環境.
  - c. **Control** – The right to improve the property.
    - 控制權 – 權力去改造, 增進你的土地.
  - d. **Disposition** – The right to transfer your property to other.
    - 支配處置權 – 權力去轉移你的產權給他人.

II. **Real Property** - (Immovable) - The right or interest that a person has in his or her land, anything affixed to the land.

✓ 不動產 - 個人的土地或任何附加在土地上的擁有權跟利益.

1. What are included in Real Properties?
  - 不動產包括了什麼?
  - a. **Airspace Right** - The right to use the airspace above your land without interfering others.
    - 空間擁有權 – 在不違法的情況下, 你有權利去使用你土地上的空間.
  - b. **Mineral Rights** - The rights to unmined minerals, which are considered as part of the real property. After removal of the minerals, it becomes personal properties.
    - 權利去挖取你土地下所擁有的礦物, 包括金, 銀, 和其他所有礦物, 但礦物一旦取出, 將由不動產轉為動產.
  - c. **Riparian Right** - The right to use moving, flowing water above, underneath, and next to his/her land as long as it does not interfere with the right of other landowners.

- 流動水使用權 - 不侵害鄰居的情況下，你有權利去使用在你土地上，地底下，或者土地旁的流動水源。

**Example:** River, stream (河, 川)

- d. **Littoral Right** - The right to the usage of a non-flowing body of water (within a shoreline) near his or her land.

- 沿岸使用權 - 權利去使用你土地旁的不流動水源。

**Example:** Lake and ocean. (湖, 海)



**Exam Tip**

**Riparian** – River and stream.

R = River.

**Littoral** – Lake and ocean.

L = Lake.

- e. **Appropriation of Water** – State may exercise their **right of appropriation** and take water for beneficial use if its purpose is for public.

- 使用公共自然水流 - 如有公共需要，政府可以挪用水流。

- f. **Improvement** – Anything that are affixed or attached to the land.

- 任何附加在你的土地上的用品。一但被固定在土地上之後，這些用品會從動產變成不動產。

**Example:** 籬笆，還沒裝置上去的時候是動產，一但固定在土地上後，就會變成不動產。

- g. **Appurtenant** – Anything that belongs to the land and automatically transfers with the land.

- 附屬的所有權會跟著土地，不需要其他的讓與證書

**Example :** Easement 地役權, Riparian Right 流水使用權.

III. **Personal Property - (Movable)** - Movable properties that are not considered as real properties.

- ✓ 個人動產 – 個人所擁有的移動財產擁有權跟利益.

**Example:** 衣服, 家具, 車子.



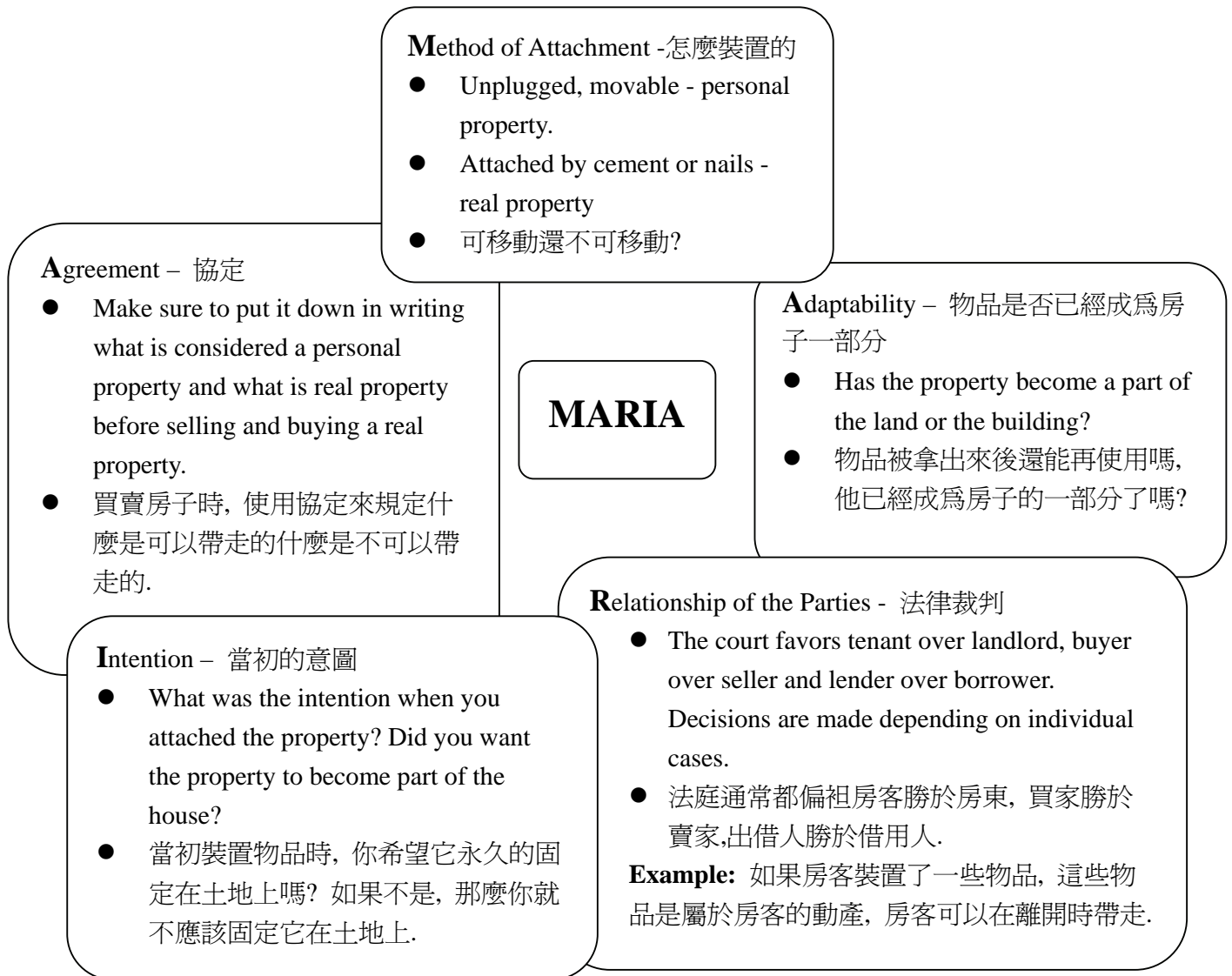
Note: 動產 (Personal Property) 也稱為 **chattel or chattel real.**

1. What are included in Personal Properties?

- 動產包括了什麼?
  - a. **Fixtures** – Personal properties attached to the land and become real properties.
    - 固定裝置,設備 - 動產物品一但固定裝置在土地或房子上,就會變成不動產
  - b. The court use **MARIA** to determine if an item is a fixture.
    - 法庭使用 **MARIA** 去裁定物品是否是固定裝置.



## MARIA 是什麼?



2. **Trade Fixtures** - (ALWAYS personal properties) – Personal property used in business can be installed as long as the fixture does not harm the property when removed.

- 商業用途設備 - 永遠都是動產! 在離開的時候商家可以帶走所裝置的櫃子跟冰箱, 只要不損壞房子的原本模樣即可

**Example:** 商業冰箱, 櫃子或架子.

## IV. Measurement Methods of Land Descriptions

### ✓ 測量土地的方式

1. **Metes and bounds** (Surveyor's Map) 測量員地圖
  - a. **Metes** - Distances, which can be measured in inch, feet, yard.
    - Metes 代表距離, 通常都用英吋, 英尺, 碼來量
  - b. **Bounds** - Natural or artificial boundaries. Single monuments or markers such as river, tree, lake, highway...etc.
    - Bounds 是使用自然或人造的物品來量
      - 自然 - river 河, tree 樹, lake 湖, rocks 石頭
      - 人造 - highway 高速公路
2. **Lots, blocks and tracts.** - Recorded subdivisions map approved by the county or city
  - 城市所紀錄的社區地圖.
    - a. Subdivision map is also known as Plat map.
3. **Sections and townships** (U.S. Government Survey System)
  - 政府測量員地圖
    - a. 3 Main Base line and Meridian Starting Points in California.
      - 三個加州最重要的座標線
        - ◆ **Humboldt Base Line and Meridian in Northern California**
        - ◆ **Mt. Diablo Base Line and Meridian in Central California**
        - ◆ **San Bernardino Base Line and Meridian in Southern California**
    - b. **Base line** - Horizontal.
      - 橫線
    - c. **Meridian lines** - Vertical,
      - 直線
    - d. **Tier Lines** - Same direction as base lines (horizontal)
      - 與 base line 相同方向.
    - e. **Range Lines** - Same direction as meridian lines (vertical)
      - 與 meridian lines 相同方向.
    - f. **Township** - Tier line and range line cross and create a square that is 6 mile x 6 mile.
      - 美國土地測量地區 - Tier line 和 Range line 交叉造出六英里見方的土地.

**Township has 36 sections.**

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

**Reference**

**1 acre** = 43,560 sq ft; 4840 sq yards.

**1 mile** = 5,280 feet long = 1760 yard

**1 square mile** contains 640 acres

**1 section** = 1 mile square = 640 acres

**1 township** = six miles square (36 square miles, 36 sections)

**1 section** = 640 acres

**1 yard** = 3 feet

**1 foot** = 12 inches

**2 mile square** =  $2^2$  square miles = 4 square miles

## Township Exam Question example 1.

- 1 section = 640 acres
- $\frac{1}{2}$  section = \_\_\_\_\_
- $\frac{1}{4}$  section = \_\_\_\_\_

## Township Exam Question example 2.

- The north of section 21 is section \_\_\_\_\_?



Note: Make sure you know where the section numbering starts, if you get the section numbering wrong, your answer will be **WRONG!**  
**Township** 數字順序要知道  
不然考題答案就會做錯!

# Chap 2

## Estates and Transfers

# Summary

- What is an **estate**?
  - ✓ 什麼是 estate
- What kind of **estates** are there?
  - ✓ 有什麼樣的 estate?
- What are the differences between **Freehold Estate** and **Less-than-freehold estate**?
  - ✓ Freehold Estate 跟 Less-than-freehold estate 有什麼不一樣?
- How do we transfer properties?
  - ✓ 產權如何轉讓?
- What kind of **ownerships** are there?
  - ✓ 產權有哪幾種?
- What are **recording** and **acknowledgment**?
  - ✓ 什麼是紀錄? 什麼是公證?

## I. **Estate** – Ownership interest and right a person have in his or her land

✓ 地產-土地所有權的利益

### 1. There are two types of estates

➤ 兩種地產

a. **Freehold estates**

b. **Less-than-freehold estates**

## II. **Freehold Estate** – (Real Property)

### 1. There are two types of **Freehold Estate**

a. **Fee Simple Estates** - The greatest interest a person can have in his or her land.

➤ 土地擁有者的最大利益，擁有者可以使用土地終身。

i. **Fee simple Absolute** – When the owner has no limitation on his or her land.

➤ 土地擁有者沒有任何限制條件，完全擁有不動產。

ii. **Fee simple Defeasible** – When the owner has limitation on his or her land, if that limitation is breached, then title reverts back to original owner.

➤ 土地擁有者有限制條件，如果違反這些條件，將會失去土地。

**Example:** David 將土地賣給 Jill. 限制條件是 Jill 只能拿來當家園，不可以使用土地作為其他用途，幾年後，Jill 決定要在土地上開酒館。這就違反了土地的限制條件，Jill 的土地擁有權可以被 David 奪回。

b. **Life Estates** – Ownership is only valid when the designated owner is alive.

➤ 不動產擁有權的利益只有在擁有者還活著時有效。

i. **Estate in Reversion** - If that designated owner dies then estate reverts back to the original owner.

➤ 如果指定擁有者一但過世，地產將會回到當初擁有者手中。

ii. **Estate in Remainder** – If that designated owner dies and the original owner grants another designated owner and the title is transferred to another person.

➤ 一但擁有者過世，地產權交給另一個指定人手中。

### III. Less-Than-Freehold Estates (Personal Property)

1. Also known as Leasehold estate
  - a. **Estate for years** – A lease that has a fixed period of time, can range from few days up to 99 years. A notice to terminate is not required.
    - 一個固定時期的租約, 事先約定好, 可以從幾天到 99 年. 不用提前解約通知.
  - b. **Estate from period to period (Periodic Tenancy)** – A week to week, month to month, year to year lease, renewable and a notice to terminate is required.
    - 可以續約的租約, 需要提前解約通知
  - c. **Estate at will** – A lease that has no fixed time period, termination depends on the will of either party.
    - 兩方都可隨時終止的租約, 因為租約沒有規定時間.
  - d. **Estate at sufferance** – When the tenant remains in the property without landlord's consent after the lease expired.
    - 在租約過期後, 房客仍然使用租地, 並沒有得到房東的同意.

### IV. Acquisition and Transfer (Alienation)

✓ 獲得以及轉讓地產的 7 個方法

1. **Transfer by Deed**
  - a. **Deed** – A document that transfers and evidences the title.
    - 契據 - 轉讓和證明所有權的文書.
  - b. **Grant Deed** – A document that transfers the title
    - 授予權利證書 – 轉換所有權
    - i. Implied warranties such as the property has no encumbrances and has not been transferred to others.
      - 保證所有權沒有轉讓給其他人跟地產沒有任何負擔.
  - c. **Quitclaim deed** – A document that transfers the title by giving up a person's own interest and give it to another designated person.
    - 放棄地契的證書 – 擁有者放棄所有的利益並贈與利益給指定人
    - i. No implied warranties usually are used by transfers in between family members.
      - 只轉讓權利, 不保證土地沒有其他負擔.
  - d. **Cloud on the Title** – A defect or encumbrance that affects the title.



- 產權證書的缺陷 – 名字錯誤, 地址錯誤, 或者缺少其他應有權利的證明.

**Example:** Changes of name, a property's address being misspelled ... etc.

e. **Quiet Title Action** – A court action to remove cloud on the title.

- 當產權證書有缺陷時, 經過法律行徑去使用 Quiet Title Action, 可以改正缺陷



A valid deed...有效的證書需要這些必有的元素

- ◆ Must be in writing  
書面形式.
- ◆ Must include property descriptions  
充分正確的形容要買賣轉讓的財產.
- ◆ Grantee and grantor must have legal capacity  
買賣雙方擁有合法權力去進行買賣.
  - ◆ Grantee and grantor's legal names  
買家跟賣家的合法名字.
  - ◆ There **MUST** be a granting clause  
一定要有同意給予的條款
  - ◆ **MUST** be signed by Grantor  
賣家一定要簽名
  - ◆ **MUST** Delivered to Grantee  
證書實施執行到買方身上 (買方收到產權)
- Grantor (seller) 賣方
- Grantee (buyer) 買方

2. **Transfer by Will**

a. **Witness will** – Prepared by attorney, usually signed by the owner and two witnesses

- 見證遺囑 – 律師準備的文書, 註有日期和簽名. 至少 2 個見證人.

b. **Holographic will** – Handwritten and signed by the owner.

- 親筆文件的遺囑 – 當事人手寫, 註有日期和簽名, 不需要有見證人.

3. **Transfer by Probate**
  - a. **Probate** - Superior court proceeding ensures creditors are paid and interested parties are distributed their rightful share of the estates.
    - 經法庭認證的遺囑 - 使用法律行徑去決定一個遺囑的有效性. 確定生前債務已還清, 再公平分配剩餘的財產.
4. **Transfer by Intestate Succession**
  - a. **Intestate Succession** – No will, the method used to distribute the property is as follows
    - 無遺囑 - 分配繼承人的方式.
    - i. **Community Property** - Surviving spouse receives everything.
      - 夫妻共有財產 - 存活的一方得到所有財產.
    - ii. **Separate property** – If there's a spouse and a child, split 50-50. If there are more than 2 children, then 1/3 goes to spouse, and 2/3 goes to children. If there's no spouse, the children split.
      - 夫妻分開財產 - 配偶和一個小孩. 50-50. 兩個小孩以上, 配偶的 1/3, 剩下 2/3 小孩平均分配. 沒有配偶, 小孩平均分配.
  - b. **Escheat** – If no heir and no will, property goes to the state.
    - 政府充公- 如果沒有繼承人也沒有遺囑, 財產歸政府
5. **Transfer by Accession**
  - a. **Accession** – Acquires property by natural causes
    - 財產自然增益 - 大自然原因使財產增加.
    - i. **Accretion** – Gradual addition of land by natural causes such as moving water or earthquake.
      - 地震, 火山爆發, 或者流動水流所造成的添加物.
    - ii. **Alluvium** – Earth deposit by water
      - 沖積土 - 水流所造成的沈澱物.
    - iii. **Avulsion** – Sudden tearing that removes land by action of water
      - 土地轉位 - 洪水, 水災所造成的土地撕裂.
6. **Transfer by Occupancy**
  - a. **Abandonment** - When a tenant leaves a property without consent, the landlord reacquires full control and possession of the property.
    - 自動放棄 - 當有租約的房客自動放棄土地, 房東將重新獲得土地的擁有以及控制權
  - b. **Easement by Prescription** – Acquiring the right to use another

person's property without owning the title.

- 地役權 – 長期使用所造成的地役權，不擁有產權。

c. **Adverse Possession** – Acquiring the title by continue possession.

Five requirements for possession is

- 侵占擁有權的五個要點 -

i. **Open and notorious occupancy** – Occupy the property openly.

- 開放,並不隱藏事實,眾所皆知的居住

ii. **Hostile and adverse** – Occupy the property without true owner's consent.

- 不友善 – 你的居住必須要是沒有經過擁有人的允許.

iii. **Continue occupancy** for five years

- 居住長達五年,並無中斷.

iv. **Pay property tax** for five years

- 居住時,必須付地稅.

v. **Claim of right** or **color of title** –

- 居住者必須要有合理的原因

**Claim of right** – Simple possession

**Example:** Ms. Chin 並沒有土地所有權,但是她一生都在這個土地上過活. 土地擁有權並不知道是誰,也沒不出現過. 這時候法庭就會將土地賜給 Ms. Chin.

**Color of title** – Defective written instrument

**Example:** 過世的叔叔之前說要把產權給 Adam, 但是並無遺囑就過世了.

7. **Transfer by Dedication**

- a. When a person allows his or her land to be used by the public either voluntary or involuntary.

- 當擁有者貢獻出他的土地並讓他人公開使用,無論是自願或是法令規定

## V. Title – evidence of an ownership

### ✓ 產權 - 證明你的土地擁有權

1. **Severalty (Sole Ownership)** – Ownership by one individual or a corporation.

- 單獨佔有權 – 一個人或一個公司單獨的產權.

2. **Tenancy in Common (Unity of Possession)** – Ownership by two or more people with the right to will or sell.

- 共同產權 - 2 個人以上一起擁有一個土地, 每一個擁有者可以把自己所擁有的一部分賣或轉讓給繼承人.
3. **Joint Tenancy (Right of Survivorship)** – Ownership by two or more people who have identical interest with the right of survivorship. Joint Tenancy can never be willed, but it can be sold and transferred. However, the new owner would own with tenancy in common while the original owners will remain joint tenancy.
- 聯合產權 - 兩個人以上一起擁有一模一樣的土地產權. 如果一人去世了, 剩下的擁有人可以平均分配產權. 不可以被放入遺囑贈給他人. Joint Tenancy 可以賣, 但賣出之後新地主只有 Tenancy in common 的權力, 其他地主仍然保有 Joint tenancy 的權力.

**T-Tip for Joint Tenancy**

- a. **Title** – All owners must be in the same title
  - 產權 – 所有擁有者的產權都在同一張文書上
- b. **Time** – All owners enter the title at the same time
  - 時間 – 所有擁有者都是在同時間得到擁有權的
- c. **Interest** – All owners have equal interest
  - 利益 – 所有擁有者的利益都平均分配.
- d. **Possession** – All owners have equal right of possession
  - 支配控制 – 所有擁有人有相同的權利去支配控制土地.



法律上,  
Corporation = 一個人,  
不可加入聯合產權, 因為  
公司不會過世消失, 可以  
永久生存.

4. **Tenancy in Partnership** – Business ownership by two or more people.
  - 合夥產權 – 兩個人以上一起合夥一個公司
5. **Community Property** – Properties acquired by husband and wife during their marriage.
  - 夫妻共有財產 – 所有在結婚之後賺取的財產都是夫妻共有財產. 至於在結婚之前所賺取的財產仍然是分開的.

## VI. Recording & Acknowledgment

1. **Recording** – Making a written instrument official record of the county after it has been acknowledged.
  - 記錄 - 一個可以讓文書在公證後被合法紀錄的法律行徑.
2. **Acknowledgment (Notary)** – A verbal or signed statement indicating that the person signed the document under his or her own free will.
  - 公證 - 證明文書是當事人自願簽名.



Deed 不需要被紀錄就已經有效.

# Chap 3

## Encumbrances

# Summary

- What is an encumbrance?
  - ✓ 什麼是產權負擔
- What is a lien?
  - ✓ 什麼是 lien?
- Money encumbrance vs. Non-Money encumbrances
  - ✓ 金錢產權負擔 vs. 非金錢產權負擔
- What is homestead?
  - ✓ 什麼是保護家園法?

**I. Encumbrances – (Burden) Anything that causes limitation and affects the property.**

- ✓ 產權負擔 - 財產的負擔會造成財產的限制和財產價值.

1. **Money Encumbrances** 金錢產權負擔
2. **Non-Money Encumbrances** 非金錢產權負擔

**II. Money Encumbrances**

- ✓ 金錢產權負擔

1. **Blanket Encumbrances (Blanket Mortgage)** – A voluntary lien that consist more than one piece of real estate.
  - 總括負擔(總括貸款) – 一個自願的負擔(貸款), 總括了兩個以上的土地
2. **Lien** – A written instrument that uses a property to secure the debt.
  - 留置權 – 使用財產去保證付款還錢
  - Example :** 房屋貸款
  - a. **Voluntary Liens** – A lien that the owner voluntarily agrees to pay.
    - 自願欠債 – 自願去借債, 也同意要還債.
  - b. **Involuntary Liens** – A lien that the owner is obligated to pay.
    - 非自願欠債 – 被迫欠債, 通常是政府稅債或者其他欠帳.
  - c. **Specific Liens** – A lien on one piece of real estate.
    - 特定欠債 – 針對一個指定產業的欠債
  - d. **General Liens** – A lien on all properties.
    - 非特定欠債 – 針對土地擁有者的所有產業欠債
3. **Mechanic Lien (Involuntary and Specific)** – A lien against a property by a person who has performed labor work or furnished material on that property.
  - 工人債務 (非自願和特定) - 房子完工後, 若工人或材料費用沒有付清, 欠下的債就會變成土地的負擔.
  - a. **Preliminary Notice** – A written notice that contains descriptions of the labor or material furnished. A Preliminary Notice must be given to the owner, general contract and the lender before filing a mechanic lien.
    - 初步通知 - 在提出工人債務之前, 必須先準備初步通知的文書, 通知必須要有描述被提供的勞工和使用材料, 也須要給予土地擁有者, 總包商, 以及貸方.



b. **Notice of Completion and Notice of Cessation**

➤ 完成通知跟終止工程通知

i. Owner occupies the property after a cessation of labor.

➤ 在工程終止後，土地擁有人居住或使用房屋。

ii. Owner accepts improvement work

➤ 土地擁有人接受增進土地的工程。

iii. A cessation of labor for 60 continuous days

➤ 工程終止後 60 天

iv. A cessation of labor for 30 continuous days if the owner filed

**Notice of Cessation.**

➤ 工程終止通知送出後 30 天。

c. **Filing Time for Mechanic Lien**

➤ 通知送出時間

i. If a **Notice of Completion** has been recorded, general contractors have 60 days to file a mechanic lien.

➤ 如果你是總包商，在初步通知後跟工程完成後六十天之間

ii. If a **Notice of Completion** has been recorded, all others have 30 days to file a mechanic lien.

➤ 如果你是承包商或者其它供應者，在初步通知後跟工程完成後三十天之間。

iii. If no **Notice of Completion** has been recorded, all parties have 90 days to file a mechanic lien.

➤ 如果沒有完成工程通知，所有人都可在九十天之間送出

d. **Notice of Non-Responsibility** – When the owner discovers an unauthorized work on his or her property, he or she can file a Notice of Non-Responsibility within 10 days of discovering the construction.

➤ 無責任通知 - 在自己的土地上發現未經許可的工程之後，土地擁有人必須在十天之內送出無責任通知。

**Example:** 當房客並沒有先得到房東的許可下就擅自重新更換大地毯。房東必須要在十天內送出無責任通知，才不會在房客拒絕付款後被迫付款。

4. **Judgment** (Involuntary and General) – Court determines the right of the parties and the amount for compensation.

➤ 法律判決 (非自願和非特定) - 法庭決定誰對誰錯以及賠償數目。

a. **Abstract of judgment** – A formal recording of the judgment that creates a general lien on all properties.

➤ 正式判決紀錄 – 正式判決紀錄後，判決結果成爲債務。

- b. **Attachment** – A court process that creates a lien. Properties are to be seized by court to secure possible future judgment.
- 法庭扣押產業 - 法庭有權扣押不動產或動產去保障未判決的案子.
- c. **Lis Pendens** – A notice that is recorded with county recorder's office to create a cloud on the title on the property. Lis Pendens is often done to prevent transfer of the property before a court date is set. The property is not transferable until the cloud on the title is removed.
- Lis Pendens 會製造一個 cloud-on-title (證書的缺陷) 在產業上, 所以當事人的產業無法買賣直到 Lis Pendens 被清除. 在開庭日期決定之前, 律師通常會申請一個 Lis Pendens, 禁止當事人轉讓任何產業
- d. **Writ of Execution** (Execution sale/Sheriff's sale) – Court order which forces properties to be sold to satisfy judgment
- 執行令狀 - 法院指令當事人必須轉賣產業還債. 若當事人拒絕執行法判, 政府便會強制去出售當事人的產業還債
- e. **Injunction** – A court order that restricts a person from doing an act that violates private property restrictions on real properties.
- 法院禁止令 - 法院指令約束某人不得做出侵犯他人權利行爲
- Example:** Mr. Chin 喜歡在門前燃燒垃圾, 鄰居抗議並且申請法院指令不允許 Mr. Chin 繼續在門前燃燒垃圾. 這個法院指令就叫做 Injunction
5. Other liens are tax liens, special assessments, trust deed, mortgage...etc.
- 其他負擔包括有政府稅, 房屋債....etc

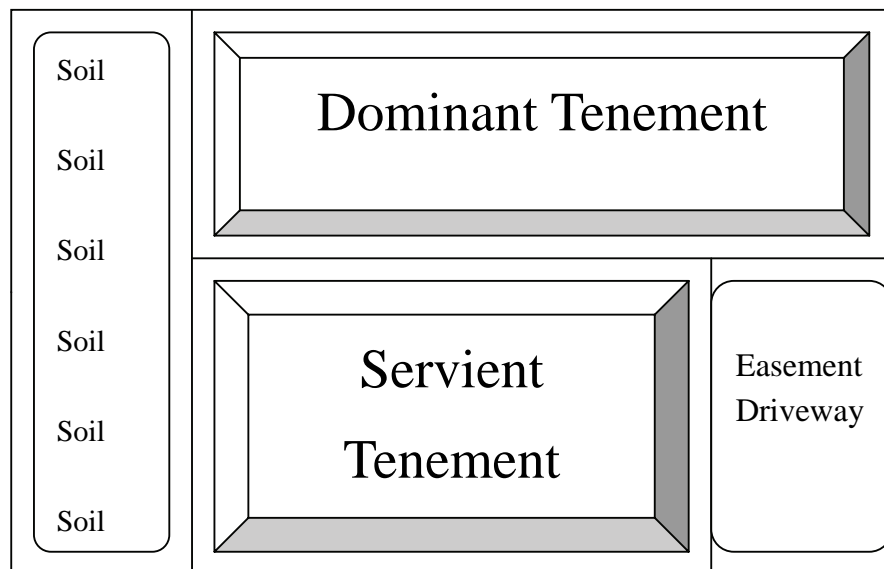


- ◆ 自願以及非自願欠債都必須在轉讓(賣)所有權之前償還.
- ◆ 除了政府稅債, 工人債務有優先權勝於其他債務.

### III. Non-Money encumbrances

#### ✓ 非金錢負擔

1. **Easement** – The right to use another’s land without owning the title.
  - 地役權 -權利去使用他人的土地, 但並不擁有產權.
2. **Easement Appurtenant** – The right to use an adjacent land to enter his or her own property.
  - 附屬的地役權 -爲了使用鄰近土地去進入自己家園, 而創造的地役權
    - Dominant Tenement** – The land that receives the benefit of an easement.
    - 因爲地役權而得到利益的土地擁有者
    - Servient Tenement** – The land that gives the benefit of an easement.
    - 因爲地役權而給予他人利益的土地擁有者.



3. **Easement in Gross** – An easement that is created for utility companies or others to enter for different purposes.
  - 爲了他人(非鄰居)而創造的地役權
    - Example:** 土地擁者可賜予瓦斯公司地役權, 讓瓦斯公司可以裝置瓦斯管在你的土地上.
4. **Creation of an easement**
  - 創造地役權
    - a. **Express Grant** – A written contract to reserve an easement.
      - 地役權文書 - 當土地被轉讓時, 地役權可以使用文書被

保留

**Example:** Mr. Chin 同時擁有兩個連在一起的土地，他賣了其中之一，並保留地役權。再他離開美國五年後，當他回來時，地役權仍然是有效的。

- b. **Implication of Law** – When an easement is implied by law and is an easement by necessity.
- 包含在法律裡面 -如果地役權再轉讓土地時已經包含在內，或者是進入土地的必需品，那地役權就是包含在法律裡面。
  - i. **Easement by Necessity** – When there is no other access, and the easement is the only way to enter the his or her own property.
    - 必需地役權 – 出入如果必須要用到他人土地，法庭會允許地役權。
- c. **Easement by Prescription** – Continuous using the easement for five years can create an Easement by Prescription as long as the use meet these requirements:
- 長期使用地役權 - 五年不停止使用他人土地出入可以創造出長期使用地役權。
  - i. Open and notorious
    - 開放的使用
  - ii. Uninterrupted for five years
    - 不間斷的使用
  - iii. Under a claim of right or color of title
    - 合理的原因
  - iv. Hostile (without permission of the owner)
    - 沒有經過擁有人的允許



使用 Easement by Prescription 所得到的地役權。一但停止使用五年，會自動消失

## 5. Terminating an Easement

- 終止地役權
- a. **Express Release** – Any written instrument can terminate an easement.
  - 地役權終止文書- 使用文書終止地役權
- b. **Merger of Dominant and Servient Tenements** – When dominant and servient tenement becomes one owner, the easement disappears automatically.
  - 當 dominant 和 servient tenement 合而為一時, 地役權消失, 當土地再次被分開時, 地役權可以再次被創造.
- c. **Abandonment** – When the easement is abandoned and has not been used for five years.
  - 自動遺棄和停止使用 - 當地役權被停止使用五年後, 自動會消失
- d. **Destruction of Servient Tenement** – When servient tenement is destroyed or taken over by the government.
  - 當 servient tenement 的土地被政府接管或被其他原因毀壞時, 那地役權會自動終止.

## 6. Building Restrictions

- 建築物的限制
- a. **Covenants** – A promise that prohibit you to do certain things.
  - 蓋印合同 – 承諾什麼可做什麼不可做
    - Example:** 當一個房子賣的時候包含了一個蓋印合同, 條款是房子不能拿來賣酒精, 一但買家違反蓋印合同裡的條款, 賠償將是金錢或者法庭禁止令.
- b. **Condition** – A restriction, if breached the restriction can lose the title.
  - 條件合同 – 限制什麼可做什麼不可做, 如果違反, 將會失去土地.
- c. **Public/Governmental Restriction** – Government limit, usually regulated by cities or counties under zoning law.
  - 政府限制 - 政府所規定的限制, 通常是被不同區域的政府管制
- d. **Zoning** – Government restriction that controls how the property can be used and set the limitation on building requirements.
  - 政府規定怎麼使用土地以及建築物的必要條件
- e. **Private Restrictions** – Previous or current owner's limitation for their own benefit.
  - 私人限制 – 私人限制怎麼用土地, 通常是現在或以前土地擁有者自己研發出的.



Covenants, condition and restrictions 也被稱為 CC&Rs.

7. **Encroachment** – An unauthorized use of another’s land without the owner’s consent. If the owner has not sued and removed the encroachment within three years, he or she loses the right to pursue.

- 侵佔 - 當非土地擁有人任意執行 improvements(改善土地的)工程時, 他正在侵占你的土地. 你可以在三年之內把這個 Encroachment 清除掉, 否則非土地擁有人可以因為 Adverse Possession (侵佔擁有權)或者 Easement by Prescription(地役權)而合法使用你的土地

#### IV.Homestead

1. **Homestead** – A California law which protects the homeowners for a certain amount of equity from forced to sale to satisfy their debts.

- 保護家園法 - 加州法律保護那些爲了債而即將失去土地的擁有人, 但有限制的保護少許淨值.

# Chap 4

# Agency

# Summary

- What is agency? What are the responsibilities of brokers (agents)
  - ✓ 什麼是 agency? Agent/broker 的責任是什麼?
- What kind of listings are there?
  - ✓ 賣房子所用的 Listing 有哪些?
- What type of disclosures and agreements are in real estates?
  - ✓ 房地產業裡, 有哪些 disclosures 跟 agreements?
- How to terminate agency relationships?
  - ✓ 如何終止 agency?
- Real Estate Law Violation
  - ✓ 房地產法律
- Associations for agents and brokers.
  - ✓ 房地產協會有哪些?



## I. Agency

1. **Agency** – When a principal authorize an agent to represent or act for him or her

➤ 當一個人授權給一個仲介去幫他做事

a. **Agent** – A person who provides the service to the client.

➤ 仲介(代理人) - 幫他人代理行動

b. **Principal** – A person who hires an agent to represent him or her.

➤ 顧客 – 僱請仲介為他工作.

c. **Subagent** – A person who provides the service to the principal under the original agent's supervision. Principal must consent before an agent can appoint a subagent to perform the service.

➤ 副仲介 - 當原本的 broker (agent)授予另一個 broker (agent)權利去幫賣家賣房子, 必需要有賣家的同意.

d. **Cooperating Brokers** – When non-listing agent/broker works with the listing agent/broker to sell the property.

➤ 合作仲介 – 當兩個仲介一起合作去完成一個買賣.

e. **Commission** – A percentage of the selling price paid to an agent for his or her service.

➤ 佣金 – 一般是以成交價格的百分比計算. 可以商量, 沒有一個固定價格

2. **Agent's Responsibility**

➤ Agent 的責任

a. **Fiduciary** – Trust and confidence between agent and principal.

➤ 信託 - 相信 agent, 對 agent 有信心, 才會托付責任給 agent.

b. **Fiduciary relationship** – The relationship which includes the highest good faith between agent and principal.

➤ 信託關係 – 對於顧客, Agent 需要最高的信義(誠實).

c. **Trust Accounts** – An account where the principal's money deposit is placed in.

➤ 信託銀行帳號 – 一個放有顧客金錢的銀行帳號.



Agent 必須...

- ◆ Always seek for principal's best interest above self or others.
  - 永遠把顧客的利益放在前面
- ◆ Always inform principal all material facts
  - 永遠把事實告訴顧客
- ◆ Never gain any monetary interest without the client's consent.
  - 若沒有得到顧客的同意，不得擅自得到利益
- ◆ Never use principal's property for his or her own advantage.
  - 不得使用顧客的財產去賺取自身的利益。

## II. Listing –

1. **Listing** – A written instrument which indicates the agent is employed by the principal to perform a certain act such as selling a house.
  - 雇用 broker (agent) 去幫賣家(賣房子的人)做事的合約。
2. **Open listing** – A type of listing that gives several agents and the owner the right to sell the property. Whichever person finds a buyer first is entitled to the commission.
  - 開放的 listing, 誰都有權利可以去賣這個房子包括賣家本身。
3. **Exclusive Agency Listing** – A type of listing that gives only one agent and the owner the right to sell the property during a fixed period.
  - 只有一個 agent 擁有權利去賣賣家的房子, 但是土地擁有者自己本身也可以賣自己的房子
4. **Exclusive Right to Sell Listing** – A type of listing that gives only one agent the right to sell the property during that fixed period. Even if the owner sells the property within this fixed period, the agent is still entitled to the commission.
  - 固定期間內, 只有一個 agent 擁有權力去賣賣家的房子, 若然賣主自己在這期間內賣出了房子, agent 仍然可以得到 commission.
  - a. **Safety Clause** – A section in Exclusive Right to Sell Listing which indicates that during a negotiated period, even though the listing has been terminated, the listing agent/broker may still be entitled to the commission.
    - 安全時期 – 一個時期內, 就算 listing agreement 已經終

止, listing agent/broker 仍然可能得到 commission.

5. **Net Listing** – A type of listing which the owner sets a minimum price for the property, any amount over that price is the commission of the agent.
  - 多於賣家定的價錢就是 agent 佣金
6. **Option Listing** – A type of listing which the broker retains the right to purchase the property.
  - Broker (agent)保有權利自己去買下這個房子

### III. Disclosures and agreements –

1. **Real Estate Agency Relationship Disclosure**
  - a. Agent must fill out the Real Estate Agency Relationship Disclosure to indicate if he or she is representing for seller, buyer or both (dual agent).
    - Agent 必須要在書面上公開, 你是哪一方(buyer, seller, 或 dual)的 agent, 你有什麼責任?
2. **Transfer Disclosure Statement (TDS)** – A form that must be provided by must be filled out by the seller and the listing agent; it indicates the conditions of the items in the house.
  - 書面告知買家所有事實, 房子哪裡有缺陷需要維修
  - a. TDS should be provided by the seller.
    - 賣家必須填寫 Transfer Disclosure Statement, 因為他最了解房子. 他必須要誠實告知所有他知道的缺陷.
  - b. The seller's agent should inspect the house then fill out TDS.
    - Seller 的 agent 必需要檢查一遍, 然後填寫 Transfer Disclosure Statement, 在 list property 之前簽名
  - c. TDS should be received by the buyer.
    - 買家一定拿到一個 Transfer Disclosure Statement copy, 簽名證明他有收到這個公開通知.
  - d. The buyer's agent should inspect the house then fill out TDS.
    - 買家的 agent 也必須要用眼睛檢查一次, 填 Transfer Disclosure Statement 然後簽名
  - e. If the buyer did not receive TDS, he or she has the right to withdraw his or her offer.
    - 如果買家沒有收到 Transfer Disclosure Statement 表格, 他有權利反悔不買這個房子.
  - f. All parties must sign.
    - 所有人都必須簽名
3. **Transaction File** – A folder that contains all the agreements and

documents, are to be kept for 3 years in case the Commissioner request an inspection.

- 買賣檔案必須要放三年以上, Commissioner 隨時都有權力抽查.

#### 4. **Death Disclosures**

- a. If a death occurred in the property within three years, agent must disclose it as a material fact. After three years, there's no need to voluntarily disclose it.
  - 如果三年內有死亡出現過, agent 必須誠實告知, 三年後, agent 不需要告知之前住戶死亡原因.
- b. If a death occurred because of AIDs, there is no need to voluntarily disclose it.
  - 你不用自動告知關於愛滋病死亡, 但是如果顧客有問題的話 仍然必須要誠實回答.

#### 5. **Agreement copies**

- a. Real Estate Commissioner's Regulation requires any agreement's must be copied and given to the signing parties immediately after they are signed, or the penalty could be license suspension or revocation.
  - Commissioner 要求簽名的人必須也擁有一份 copy, 如果不遵守這項規定, 可能會失去 license!

## IV. How to terminate an Agency Relationship

### ✓ 終止 Agency Relationship

#### 1. **Termination by law**

- 法律終止
- a. Listing agreement expires
  - 終止日期是在於 Listing agreement 上
- b. Property destroyed
  - 房子毀滅
- c. Death of either the agent or the principal
  - Agent 或 seller 死亡

#### 2. **Termination by either party**

- 任何一方終止合約
- a. Agent and principal both agreed to terminate the agency relationship.
  - 兩方都同意要終止合約.

- b. Termination by agent – may be liable for damage
  - Agent 可以終止合約 可是有可能要付違約金
- c. Termination by principal – may be liable for commission
  - Seller 可以終止合約, 但是如果 broker 已經做到自己本分該做的事情, 找到買家願意並且有能力買, 那 seller 必需付佣金.

3. **Close of escrow**

- 買賣完成

V. **Real Estate Law Violation –**

1. **Real Estate Commissioner** – The chief executive of the Department of Real Estate who is appointed by the Governor.

- DRE 行政管理人 - 州長指定的房地產行政管理人
- a. The Commissioner’s responsibility is to create and enforce real estate law and regulations.
  - DRE 行政管理人有權力創造出合理的方針, 管制所有房地產的條例, 實施房地產法律
- b. The Commissioner has the power to suspend, revoke or deny any license after a case go through a formal hearing.
  - DRE 行政管理人有權利去中止, 奪回, 或者拒絕給予任何不合格的人地產執照.

2. **Misrepresentation –**

- 不實的陳述
- a. **Innocent Misrepresentations** – When an agent makes a false statement and not knowing the statement is false.
  - 不知道的錯誤觀念
- b. **Negligent Misrepresentations** – When an agent makes a false statement and believes it to be true.
  - 你以為是對的錯誤觀念
- c. **Fraudulent Misrepresentations** – When an agent makes a false statement knowing the statement is false.
  - 知道仍然給予錯誤觀念.
- d. **Puffing** – When an agent gives an opinion, not a statement, NOT a violation of Real Estate Law.
  - 自己本身的意見, 不算違反房地產法..

3. **Divided agent** – All agents must inform principals when he or she is a dual agent. Failure to disclose this fact can result in losing both buyer and seller’s commissions.

- 若要當雙方 agent, 必須先公開告知!! 否則可能會失去買家跟賣家的佣金.
4. **Secret profit** – When an agent uses a dummy purchaser to fake an lower price offer to earn a secret profit by turning around and selling the house to a actual higher price bidder.
    - 秘密的利潤 - 當 broker/agent 已經有一個有興趣的 buyer, 出價 450,000 要買房子, 這時 broker/agent 再使用假的買家來遞送一個\$400,000 的 offer, 然後使用低的 offer 來買這棟房子. 等到房子買過來在賣給真的買家. Secret Profit = 5 萬
  5. **Misuse the trade names** – Agents MUST join associations of real estate boards to use the term “Realtor.” License can be revoked if violated
    - 除非你是房地產協會的會員 否則不能使用 Realtor 這個名詞.
  6. **Inducement of Panic Selling (Blockbusting)** – When agents persuade owners to sell their properties by telling the owners minorities are moving in to the area.
    - 使用其他種族搬進社區來恐嚇屋主去賣房子.
  7. **Supervision of Salesperson** – A broker must supervise over his or her salespersons because salespersons are considered as employees of the broker.
    - Broker 必須管理下面的 agent, 因為若 agent 犯錯, Broker 要負責任.
  8. **Actual fraud** – When an agent gives a promise without any intention of actually performing it.
    - 給予一個承諾卻沒有任何意願去履行這個承諾
  9. **Blind advertising** - When the agent advertises and gives the false impression that he or she is the owner of property for sale.
    - 當你廣告上面並沒有清楚的告知你是 agent, 而讓人誤以為你就是屋主.
  10. **Commingling** – When the funds of the principal and the funds of the agent are mixed together.
    - 當 agent 把客人以及自己的錢混在一起
      - a. Two personal funds that can appear in a trust account
        - 兩種可以出現在信託帳號裡的錢
          - i. \$200 dollars initial deposit to start the trust account.
          - 兩百開戶費
          - ii. Commission can only remain in the trust account for less

than 30 days.

- 佣金只能放在信託帳號不超過三十天

11. **Conversion** – When an agent uses principal’s funds without authorization.

- 當 agent 擅自使用顧客的錢

## VI. Associations

### ✓ 房地產協會

1. **Multiple Listing Service (MLS)** is a real estate association which provides listings, recent sales and other important information within the real estates.

- MLS 是 agent 使用的一種協會，他包括了賣房子的 listing, 最近買賣交易紀錄，以及其他關於房地產的重要資訊。

a. Examples websites that are supported by MLS are . . .

**www.realtor.com**

**www.ca.realtor.com**

2. Other Associations are. . .

- 其他協會包括有. . .

- California Association of Realtors (CAR)
- National Association of Realtors (NAR)
- Local real estate association

## VII. Broker Business

1. **Gross Dollar** – Office income before paying out expenses and commission

- 總收入 – 還未扣除佣金

2. **Company Dollar** – The amount left after paying out commission.

- 公司收入 – 扣除所有費用後，可經營的錢

3. **Desk cost** – Operating expenses divided by agents in the office.

- 所有費用除以公司的 agent 就等於一個 desk cost 的錢。

# Chap 5

# Contracts



# Summary

- What is a contract? What kind of contracts are there?
  - ✓ 什麼是 contract? 有哪些種 contract?
- What are the essential elements of a contract?
  - ✓ contract 有哪些必要的要素
- How to terminate an offer?
  - ✓ 如何終止一個 contract?
- When a person cannot perform a contract, what are other options?
  - ✓ 當 contract 無法被完成時, 如何解決?

I. **Contract** – An agreement binding a person to do or not to do a certain act.

✓ 契約,合同- 協議某種舉止/服務可做或不可做

1. **Bilateral contract** – An exchange of one promise for another, it is a two way promise.
  - 對等契約 – 雙方互相交換承諾
2. **Unilateral contract** – A one way promise, when one party makes a promise to whoever that can deliver the promise.
  - 單方契約 – 單方面承諾, 誰都有權力去達到合約要求.
3. **Valid contract** – A contract that is binding and enforceable.
  - 有效合約 – 當合約必須被遵守以及具有實施性
4. **Voidable contract** – A valid contract that any party can refuse to perform because of deficiency.
  - 可以取消的合約 – 當合約有缺陷時, 任何一方都可以拒絕實施.
  - a. **Duress** – When a person use imprisonment to force someone to act against his or her own wishes.
    - 強迫 -違法的扣留
  - b. **Menace** – Threat to commit duress.
    - 威脅 – 口頭上威脅去做違法扣留.
  - c. **Undue influence** – When a person uses his or her authority for an unfair advantage.
    - 無形的影響 – 當一個人使用他上司的權力去威脅下屬, 然後得到利益.
5. **Void contract** – When a contract that is missing the essential elements of a contract and legally does not exist.
  - 無效合約 – 缺少重要合約部份, 這時合約就等於不存在
6. **Unenforceable contract** – Due to certain reasons, a valid contract cannot be enforced.
  - 無法執行的合約 – 當一個有效的合約, 因為某種原因而無法執行.
7. **Executory contract** – A contract that is not yet completely performed.
  - 沒有完全被完成的合約.
8. **Executed contract** – A contract that is completely performed.
  - 完全被完成的合約.
9. **Expressed contract** – A contract that clearly stated the terms and intentions

in words, either oral or in writing.

➤ 文書合約 – 文書形式的合同

10. **Illegal contract** – If the contract purpose is illegal, then the contract becomes a void contract.

➤ 如果合約違法 – 那合約自動無效.



- **Execute a contract** - To sign a contract (簽名)
- **Execution of a contract** - performing or carrying out the contract. (實際行動)

## II. Essential elements of a contract

1. **Capacity** – All parties must be capable of making a contract.

➤ 創造合約的能力 – 所有人都必須要有合法能力去創造合約.

a. **Minors** – A person who is under the age of 18.

➤ 未成年 - 18 歲以下

i. **Emancipated Minors** – Minors who have the right to contract.

There are 3 ways for minors to become emancipated

➤ 擁有成人權利的未成年

○ Marriage

➤ 婚姻

○ Member or former member of U.S. armed force.

➤ 軍人

○ When the minor declared emancipation by court.

➤ 法庭認同未成年有成年權力

b. **Incompetents** – People who have unsound mind such as mentally retarded people.

➤ 精神殘障 - 不能為自己想法發出聲音的人


c. **Convicts** – When imprisoned, people lose their right to contract, unless he or she gets a contract that is ratified by the California Adult Authority.

➤ 當罪犯被關入牢中時, 他們失去他們的市民權利, 他們

無法簽約, 除非 California Adult Authority 批准.

2. **Mutual Consent** – When one party makes an offer and the other party accepts.
  - 雙方同意 – 當一方開出一個條件, 另一方也同意.
3. **Consideration** – payment of money or anything of value.
  - 合約上同意的付款或者任何有價值物品.



- 
- **Offeror** – 給 offer 的人
  - **Offeree** – 收 offer 的人

### III. Termination of an offer

1. **Counteroffer** – When the offeree rejects an offer, and create a new offer. Once there is a counteroffer, the original offer is automatically terminated.
  - 代替原先的提議(出價) 或改變條款. 一但 counter offer 出現, 原本的 offer 終止.
2. **Lapse of time** – When the offeree failed to accept within a prescribed period.
  - 當被開價的人沒有在一定的時間回覆, offer 終止.
3. **Communication of Revocation** – Before the other party accepts the offer, an offer can be withdraw anytime.
  - 只要另一方還沒同意, 原本開價的那一方有權撤回!
4. **Failure of offeree to fulfill a condition** – If a certain condition is breached, the offer is terminated.
  - 如果某種必需的情況沒被達到, 之前的開價變失效.
5. **Rejection** – If an offer is rejected, that offer is terminated.
  - Offer 被拒絕, offer 終止
6. **Death or insanity of the offeror or offeree** – Death or insanity of either party cause the offer to terminate.
  - 一但一方死亡或精神錯亂, offer 終止.
7. **Illegality of purpose** – If the purpose is illegal, the offer is terminated.
  - 目的違法, offer 終止

#### IV. Performance of a contract

1. **Assignment** – When a person wants to transfer the responsibilities of a contract to another person. However, the assignor holds secondary liability.
  - 指派 -把一個人的合約轉到另一個人身上, 但 Assignor 有第二責任
- a. **Assignor** – The original contract person who transfer the responsibility to assignee.
  - 最初的合作人是 Assignor.
- b. **Assignee** - The person who receives the contract responsibilities from assignor.
  - 被指派的人事 Assignee.
2. **Novation** – When a new contract substitutes the existing contract.
  - 新契約代舊契約 -完全要擺脫合約, 沒有任何責任.
3. **Revocation** – When the offeror withdraws the offer before the offeree’s acceptance.
  - 撤回 – 當 offeree 接受 offer 之前, offeror 有權收回 offer.
4. **Liquidated damages agreement** – When a specified amount is stated in advance as compensation for breach of contract.
  - 事先寫下賠償數目 – 合約事先寫下賠償數目, 如有違約, 賠償數目必須要付給受害人.
5. **Specific Performance** – When dollar damage cannot provide remedy for breach of contract, a specific act is ordered by court as the remedy.
  - 特定執行 – 當金錢賠償無法作為賠償, 違約者被迫實行合約內容.

# Chap 6

## Government Regulations

# Summary

- What is zoning?
  - ✓ 什麼是 Zoning?
- What is Fair Housing Law?
  - ✓ 什麼是 Fair Housing Law?
- What are other regulations?
  - ✓ 其他所有房地產規定有哪些?

I. **Zoning** – When the city or the county exercise the police power to control the use of private property for the protection of public’s health, safety and welfare.

✓ 都市的區域劃分 – 爲了大眾的健康, 安全, 還有福利, 政府規劃出 **Zoning** 去控制私人土地的使用方式.

1. **Downzoning** – When the property’s zoning is changed to a lesser use capacity.
  - 當土地使用密度降低.  
**Example:** 從商業變成住家
2. **Police Power** – In order to protect the public’s health, safety and welfare, the state, county or city has the power to control the use of the property.
  - 爲了保護大眾的健康, 安全以及福利, 政府有權利去管理私人土地的使用方式.
3. Zoning symbols are –
  - a. **A** – Agricultural area or Airport.
    - 農業的, 農場, 牧場, 或機場.
  - b. **C** – Commercial areas.
    - 商業用途, 公司, 百貨公司
  - c. **M** – Manufacturing
    - 製造業, 工業的.
  - d. **P** – Parking lots or parks.
    - 停車場, 公園.
  - e. **R** – Residential properties.
    - 住家
4. **Nonconforming use (Grandfather Clause)** – When a property was built before the zoning changes were in effect, therefore the property exists legally.
  - 當一個土地房屋沒有遵照都市的區域劃分法, 但是因爲他是在都市的區域劃分法律出來之前就存在的房屋, 所以仍然是合法的.



5. **Variance** – When the property owner applies for a change in zoning regulation due to hardship
  - 基於屋主本身的需要，而申請所做的變化。
6. **Conditional Use Permit** – When the property owner applies for a change in zoning for public welfare.
  - 基於大眾的福利所申請的變化
7. **Eminent Domain** – The federal or state government has the power to purchase a property from a landowner for public welfare.
  - 為了大眾福利著想的情況下，政府有權利去使用市場的價錢買下人民的房子。
8. **Common Interest Development (CID)** – When there are common areas used by all the property owners.
  - 當土地擁有者共有公共區域可使用
  - a. Four basic types of common interest ...
    - i. Planned Unit Development (PUD)
    - ii. Community Apartment Project
    - iii. Condominiums (including Timesharing)
    - iv. Stock Cooperative

## II. **Fair Housing Laws** – Prohibit all people to discriminate during real estate transactions.

- 不允許房地產買賣過程中有歧視他人行為。
1. **Unruh Civil Rights Act** – Prohibit discrimination of all basis during business transactions.
    - 不允許商業機構去歧視因為性別，種族，顏色，信仰，祖籍，國家，殘障或者是醫療上的情況
  2. **Fair Employment and Housing Act** – Prohibit all people to discriminate while selling, renting or leasing a property.
    - 不允許人們拒絕賣或租因為他人的性別，種族，顏色，信仰，祖籍，國家，家庭狀況以及年紀。
  3. **Housing Financial Discrimination Act** – Prohibit financial institutions to discriminate while financing a loan.
    - 不允許金融機構在貸款過程中有歧視他人行為。
    - a. **Redlining** – Denying of a loan based on the property's location.
      - 拒絕他人的貸款申請因為房子的地方
  4. **Steering** – Steering the client into a certain neighborhood based on his or

her race.

- 因為客人的種族, 所以只帶客人去看某一區域的房子.
- 5. **Panic selling or Block Busting and Panic Peddling** – Convincing the homeowners to sell their properties due to the reason that other minorities are moving in.
  - 說服屋主去賣房子因為其他種族要搬進來.

### III. Other Regulations

1. **Lead Based Paint Disclosure** – Requires any lead hazard to be disclosed to buyers or lessees of most housing built prior to 1978.
  - 1978 年前所造的房子有一部分使用含有鉛油漆. 政府規定賣家及房東一定要公開告知有鉛油漆的資料.
2. **Geological Hazard zones** – Earthquake zone information should be disclosed by the seller or the agent.
  - 賣家以及 agent 要公開告知買家地震區內的房子.
3. **Subdivision Map Act** – The act that gives local government the power to control the use of the property and the improvements to be done.
  - Subdivision map act 最終目的是為了提供概要讓建築商遵守政府的規格
4. **Subdivided Land Act** – The act that protects the buyers of new subdivisions from fraud, misrepresentations or deceits.
  - Subdivided land law 最終目的是為了要保護消費者的權益, 讓消費者再買新房子時不要被欺騙, 或隱瞞任何事實.
5. **Public Report** – A subdivision disclosure report stating all the important facts.
  - 一個公開報告, 擁有所有重要事實關於要賣的土地單位.
    - a. **The preliminary public report** – A public report by Commissioner when there are requirements to be fulfilled.
      - 有些規格未完成的最初公開報告.
    - b. **The final public report** – A public report by commissioner when the all requirements are completed.
      - 所有規格已完成的最終報告.
6. **State Housing Law** – Regulations for minimum construction and occupancy requirement for dwellings, apartments, houses, and hotels.
  - 加州的州房屋法控制建造需求以及居住需求給所有住家.

**Note:** Regulations are enforced by local building inspectors.

    - 建造需求是被當地建築檢查員所實施的.

# Chap 7

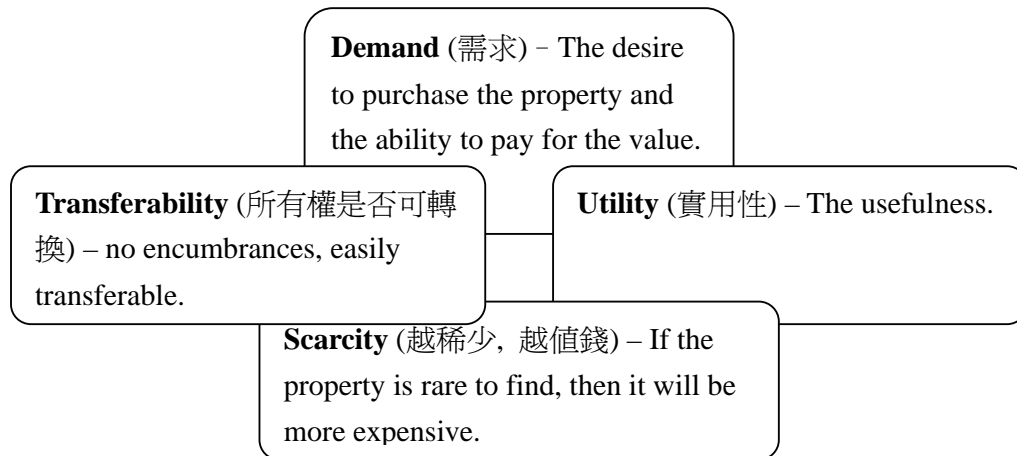
# Appraisal

# Summary

- What is appraisal?
  - ✓ 什麼是估價
- What kind of appraisal methods are there?
  - ✓ 有哪幾種估價方式?
- What principles of values are there?
  - ✓ Principle of values 是什麼?

## I. Appraisal

1. **Appraisal** – An estimated opinion of a property’s value on a set date.
  - 估價 – 專業人士的意見告訴你這個房子現在的價值.
2. **Market Value** – What the property is worth on the market.
  - 市場價值 – 現在市場所值的價錢.
3. **Orientation** – Placing a house with the most advantage way possible.
  - 房子的方向 – 把房子面向對於房子最有利的方向.
4. **Amenities** – Improvement or natural advantage the property possess.
  - 設施 – 改善設施或者風景會讓房子有更多買家市場.
5. **Appraisal report** – Written document of the appraisal.
  - 估價報告 - 文件紀錄估價人的答案以及資料.
6. **Fee Appraiser** – An independent appraiser who appraises for a charge.
  - 收費估價人 – 獨立的估價人, 自己收取費用.
7. **Value** – Think of **DUST**



## II. Appraisal Methods

1. **Comparative Approach (Market data method)** – An appraisal method by comparing the recent selling prices of the similar properties.
  - 市場估價 – 比較附近房子賣出的價錢來決定房屋的價值.
  - a. **Adjusting comparable prices** – A difficult step where the appraisers compare the property’s differences and adjust the price.
    - 調整價錢 – 市場估價裡比較難的步驟, 估價人比較房屋不同的部分來調整價錢.

2. **Cost (Replacement) Approach** – An appraisal method by using the cost of the property subtracting the depreciation to reach the current property value.

- 成本估價 – 把建築物當成新的建築物，減去折舊率等於現在房子價值

**Note:** Cost Approach 通常都使用在 New buildings and unique buildings.



$$\begin{aligned} & \text{Cost Approach} \\ & \text{Land value (土地的價值)} \\ & + \\ & \text{Cost of New Building - Depreciation} \\ & \text{(重新建築物價值 - 折舊率)} \\ & = \\ & \text{Market Value.} \\ & \text{(市場價格)} \end{aligned}$$

a. **Depreciation** – Decrease of value due to wear and tear or any other reasons.

- 折舊率 – 任何原因造成的價值降低.

i. **Functional Obsolescence (Curable or Incurable)** – When the property value decrease due to the property's internal problem.

- 因為過時或不能充分利用空間而失去價值. 可以拯救也可以不拯救.

**Example:** 4 房 1 浴, 老式的廚房...etc

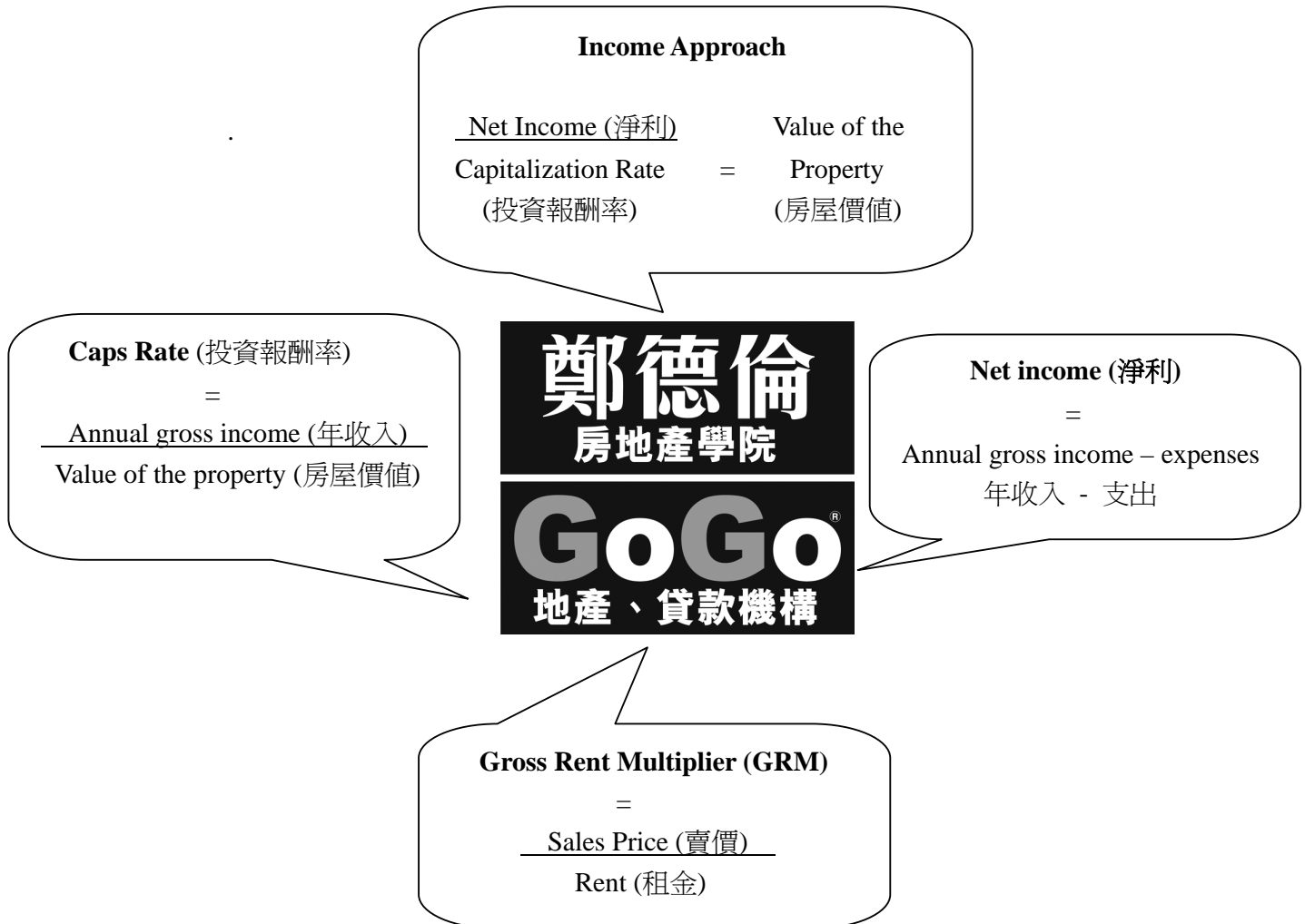
ii. **Economic Obsolescence (Incurable)** – When the property value decrease due to external problems.

- 因為外界原因而失去價值, 無法拯救.

**Example:** 飛機噪音, 你無法控制的事情.

3. **Income Approach** – An appraisal method by analyzing the future net income to calculate the market value of the property.

- 投資報酬估價 – 使用將來的利益來計算現在的價值



**Example :**

If a house rented for \$600 a month sold for \$78,000, what is the gross rent multiplier.

- $\frac{\$78,000}{\$600} = 130 \text{ (GRM)}$

If a similar house down the street is renting for \$690, what would the selling price be?

- $\$690 \times 130 = \$89,700.$

**III. Principles of values**

1. **Principle of highest and best use** – The highest net return and the best use of the property.
  - 最高利潤原理 – 房屋最適當的使用方法會製造最高的利潤
2. **Principle of supply and demand** – When the supply decrease, the desirability and the value increase.
  - 供應需求原理 – 供應的土地少，價錢提升，因為大

家都要買同一個房子。

3. **Principle of change** – Real property starts out from development stage to maturity stage, then to decline stage. The property value is constantly changing.
  - 變動原理 - 不動產價錢每天在變動, 開始可從新建築區升值到穩定住宅區, 最後會降值到老舊衰退區.
4. **Principle of conformity** – The maximum value is reached when the properties and the economic class levels are similar.
  - 相似原理 - 房子最高的價值是當附近鄰近區域建築物都很相似, 穩定性會比較高.
5. **Principle of contribution** – The value of the improvement depends on its contribution to the value of the property.
  - 投資貢獻跟回報原理 – 改善住宅設備的價值在於回報率.
6. **Principle of substitution** – When there are two similar properties, the property with a lower price has a higher demand.
  - 代替物原理 – A 跟 B 如果是同樣大小的房屋, A=\$10 B=\$15 買家不會願意多出錢買 B.
7. **Principle of regression** – When a higher value property is located at a lower value neighborhood, the value of that property decreases.
  - 逆行原理 – 當一個大的房子在一群小的房子當中, 大房子價值會降低.
8. **Principle of progression** – When a lower value property is located at a higher value neighborhood, the value of that property increases.
  - 前進原理- 當你把一個比較小的房子放在一堆豪宅中, 小房子價值會升高, 買家甚至會認為撿到寶.



# Chap 8

# Finance

## Summary

- What are some concepts of Real Estate Finance?
  - ✓ 房地產金融基本觀念是哪些?
- What are some important clauses?
  - ✓ 房地產金融重要的 clauses 有哪些
- What types of loans are there?
  - ✓ 貸款有分哪幾種?
- What are mortgages, trust deeds and land contracts
  - ✓ Mortgage, Trust Deed, 跟 Land Contract 有哪些不同?

## I. Real Estate Finance

1. **Hypothecate** – Provides a security for a loan, but does not give up possession.
  - 抵押;擔保 - 使用產權來保障貸款, 但仍然保有擁有權
2. **The Promissory Note** – When a borrower signs a note that promises the lender the borrower will repay the loan.
  - 使用文書來證明你欠債, 保證你會還款的書面誠諾
  - a. **Straight Note** - When the borrower repays interest only in installments and at the ends pays principal in one lump sum.
    - 每個月付利息 本金最後一次付清
  - b. **Balloon note (Partially amortized loan)** – When the borrower repays principal and interests in periodic payments and pay for a large payment at the end. (The final payment is called a balloon payment.)
    - 部份分期付款, 借款人定時還本金跟利息, 然後最後在付一個很大尾款. (最後的尾款叫做 balloon payment.)
  - c. **Fully Amortized Installment Note (Fixed interest rate)** – When borrower repays the principal and the interests in equal installments.
    - 完全的分分期付款, 每個月同時付利息跟本金直到所有債務還清.
3. **Negotiable instrument** – A financial document that can be easily negotiated, or transfer to others.
  - 票據, 可以簡單的給予他人
4. **Holder In Due Course** – When a third party receives a negotiated instrument without the knowledge of any defect.
  - 第三方, 通常從一方得到 negotiable instrument, 必需不知道 negotiable instrument 有任何缺陷.
5. **Points** – Fees that are charged by the lender when the borrower obtains a new loan. Points may vary from 1% to 7 % of the loan.
  - 當貸款人要申請一個新貸款時, 銀行會收費, 通常是貸款的 1%.
6. **Loan Fees** – Fees that borrower pays when applying for a loan.
  - 貸款費用 – 申請貸款時, 銀行的收費
7. **Grace Period** – A period where the lender will allow late payments without penalty.
  - 寬限期 – 銀行寬限的期限, 在你未付貸款時不處罰你, 一但超過這個寬限的期限, 銀行會開始採取行動法拍.
8. **Refinance** – When a borrower obtains a new loan to pay for the old loan, usually with a better interest.

- 重新貸款 – 使用新的貸款來還清舊貸款. 通常利息較低.
- 9. **Credit Scoring** – A document that lender uses to decide whether the borrower is capable of making payment on time or not.
  - 讓銀行知道你有沒有能力以及責任感去定時支付貸款
  - a. AKA. FICO Scores by Fair Isaac Corporation.

## II. Important clauses

1. **Acceleration Clause** – When the lender calls a loan (asks for the entire amount to be paid off at once.)
  - 當貸方因為某種原因規定你立刻還清貸款.
2. **Alienation Clause (Due on sale)** – When a lender calls a loan because the titled is sold or transferred to another person.
  - 當貸方因為地主將房屋賣掉而要求地主立刻把貸款還清.
3. **Assumption** – When a buyer accepts the responsibility for a loan, but the seller has secondary responsibility.
  - 承擔 – 如果買家承擔了房屋的貸款, 他就承擔了欠款的責任, 但是賣家仍然保有第二責任.
4. **Subject to** – When a buyer makes payments for the loan, but does not take the responsibility. The seller remains liable for the loan.
  - 現在的賣家仍有擁有所有法律責任, 但是買家付貸款
5. **Subordination Clause** – When a lien holder agrees a future priority switch with other liens.
  - 把目前的貸款放置在第二重要, 讓之後的貸款可以放在第一重要.
6. **Prepayment Penalties**- When a borrower pays off the loan before the due date and receives a penalty from the lender.
  - 如果你在規定的日期之前先把貸款付清, 你會被罰一個提前繳納的罰款.
7. **Impound Accounts** – When the lender reserves money aside from the borrower to pay property tax and fire insurance.
  - 貸款人必須要定時付的費用, 地稅, 火險..etc
8. **Assignment of Rents** – When a borrower defaults and the lender takes possession of the property with the responsibility for expenses and income.
  - 當貸款人不準時付款, 貸方, 銀行接收土地的權利, 卻也必須為土地的收入支出負責.

### III. Types of Loan

1. **Interest** – The rent for the use of the money.

➤ 利息 - 使用貸款的租金



$$\text{Interest} = \text{Principle} \times \text{Rate} \times \text{Time}$$

- a. **Nominal Interest Rate** – The interest rate stated on the loan document.
    - 表格上寫的價錢
  - b. **Effective Interest Rate** – The interest rate the borrower is actually paying for the use of the money.
    - 貸款人真正付的欠款(通常要在加其他款項, 其他費用).
2. **Fully Amortized fixed rate loan** – A loan where the borrower repays principal + interest in regular payments.
    - 完全的分期付款, 每個月同時付利息跟本金直到所有債務還清.
  3. **Negative Amortization** – When the interest charged is higher than the payment, therefore unpaid interest rolls back into the loan.
    - 利息比每個月該支付的本金還要高, 所以每個月還的錢不但不夠支付利息, 未支付的利息就會加入剩下債款.
  4. **Adjustable Rate Mortgage (ARM)** – A loan where the interest rate is fixed at first, but changes periodically after the stated period.
    - 浮動利率抵押貸款 (簡稱 ARM, 指抵押貸款的利率每隔一個固定期間根據某一市場基準調整的抵押貸款) 利息會變高變低!
  5. **Graduated Payment Mortgage** – A loan that has a fixed interest rate but starts out with low monthly payments and gradually increase.
    - 第一次買家, 固定利息, 付款額度剛開始很低, 慢慢漲高.
  6. **Biweekly Mortgage (26 payments)** – A loan where the borrower pays principal and interest every two weeks instead of once a month.
    - 固定利息, 每兩個禮拜付款一次. 一年有 52 禮拜等於 26 次付款.
  7. **15 year fixed and adjustable rate loan** – A loan to be paid off in 15 years

instead of 30 years. The monthly payment is higher than 30 years; however, the interest rate is lower.

➤ 15年固定利息，但是每月付款比30年高，利息比30年低

8. **Reverse Annuity Loans** – A loan where the borrower receives a monthly payment from the lender based on the property value.
  - 根據房屋的價值，銀行(貸方)每個月付貸款人錢，欠款不用歸還直到房子賣掉或者地主死亡。
9. **Usury** – When a lender charges a high interest rate that is not legally allowed. Illegal!
  - 高利貸 – 比法律規定的利息還要高。違法!
10. **Junior Liens** – Loans obtained after the first loan, has less priority.
  - 第一貸款之後的其他貸款。
11. **Home equity loan** – When a borrower use equity to secure a loan.
  - 當地主的抵押資產的淨值提高，地主可以選擇使用淨值來償款，降低付款額度或者再借出淨值。

#### IV. Mortgages, Trust deeds and Land contracts

1. **Mortgage** – A written instrument that secures the loan by hypothecates the property. Not used in California
  - 抵押借款 – 使用不動產來抵押保證借款人會定時還款

- **Trustor** (貸款的人) – the borrower, the buyer, or the owner who attempts to refinance
- **Beneficiary** (銀行, 貸方) – the lender.
- **Trustee** (第三方) – the third party, who has bare (naked) legal title to the property.



- **Mortgagor** (貸款的人) – borrower
- **Mortgagee** (銀行, 貸方) – lender

誰擁有產權?

- **Mortgage** - Mortgagor (borrower) holds the title
- **Trust deed** - Trustee (third party) holds the title
- **Land Contract** - Vender (seller) holds the title

2. **Trust deed** – When the borrower deeds the title to a third party as a security for the loan.
  - 當貸款人把產權抵押給第三方, 但仍然擁有產權擁有權.
  - a. **Deed of reconveyance** – The trustee will grant full reconveyance when the debt is paid off.
    - 當貸款被付清時, trustee 會把 title 歸還給屋主
3. More info about Mortgage and Trust Deed
  - a. **Title** – Mortgage creates a lien while trust deed’s title is conveyed to a trustee.
    - Mortgage - 不需要轉讓產權, 他創造出一個債 (留置權)
    - Trust deed - 產權會轉讓給 trustee 第三方.
  - b. **Redemption Period** – A stated period of time to buy back a person’s house after judicial sale. Three months for trust deed and one year for mortgage.
    - 贖回時限 - 法律規定房子可被贖回的時間.
  - c. **Deed in Lieu of Foreclosure** – When the borrower gives the lender his or her deed to prevent credit score lowering and foreclosures proceeding.
  - d. 地主, 貸款人給銀行 deed 去防止法拍, 那銀行, 貸方就成爲新地主並要扛起其他債務的責任. 通常可以拯救貸款人的信用分數
    - i. **Short Sale** – When a borrower is having difficulty paying a loan, he or she may apply for a short sale. The lender would approve or disapprove the amount of a short sale. The amount is usually less than the debt.
  - e. 當銀行, 貸方同意你歸還部份貸款, 如果你房子賣掉, 他就收取你能賣的價錢. 只有在出借人有金錢問題時才可申請.
4. **Land Contract** – When the seller has the property ownership until the loan has been paid off by the buyer.
  - 賣家仍然保有擁有權直到買家付清貸款



- **Vender** – seller (賣家)
- **Vendee** – buyer (買家)

- a. 也稱之爲 contract of sale, agreement of sale, conditional sales contract and installment sale contract.

# Chap 9

## Lending Institutions



## Summary

- What does Fed do to control money flow?
  - ✓ 聯邦如何控制金錢流動?
- What is L.T.V?
  - ✓ 什麼是 L.T.V?
- What are Institutional Lenders?
  - ✓ 什麼是 Institutional Lenders?
- What are Non – Institutional Lenders?
  - ✓ 什麼是 Non – Institutional Lenders?
- What are some Important Acts?
  - ✓ 房地產金融有哪些重要的 Act

## I. The Feds

1. **The Federal Reserve Banking System (Feds)** - The feds has the authority to control bank operations in the United States.

➤ 美國聯邦儲備銀行系統 - 擁有對美國國家銀行最大的權利

a. **Inflation** - When there are too much money out in circulation, and the price of goods increase.

➤ 通貨膨脹 - 市面上流通大量的錢, 所以貨價格提升.

b. **Deflation** - When there are not much money out in circulation, and price of goods decrease.

➤ 通貨緊縮 - 市面上流通少量的錢, 所以貨價格降低.



- 當聯邦要限制金錢流動, 他就賣他的 bonds (公債)
- 當聯邦要放通金錢流動, 他就買回他的 bonds (公債)

## II. L.T.V. (L to V) - Loan to value -

✓ 銀行貸款的百分比.

The lower the LTV, the higher the down payment.

➤ LTV 越低, 頭款越高.

The lower the LTV, the more the equity.

➤ LTV 越低, 房子的 equity 越高

**Example:** 如果 Mr. Chin 貸款 \$70,000 去買一個 \$100,000 的地. LTV 就是 70%

**Equity** - What you own (assets) - what you owe (debt) = your net worth.

➤ 抵押資產的淨值 - 你擁有多少 - 你欠多少 = 你的淨值

### III. Institutional lenders – Lenders who provide loans that are conventional and government backed.

✓ 可貸私人或政府保證貸款

1. **Life Insurance Companies** – A lender who specializes loans that are for large commercial properties such as shopping centers.
  - 大量金錢的貸款, 通常是商業用.
2. **Banks** – A lender who finance loans for general purposes.
  - 銀行 - 借款給任何用處.
  - a. **First Trust Deed Loan** – A loans financed for a property.
    - 銀行貸款給土地跟建築物.
  - b. **Construction Loans (Interim Loans)** – A loan financed for construction of a property, repaid at the end when construction has completed.
    - 銀行貸款給建築施工的錢, 等到建築施工完成, 貸款才歸還.
  - c. **Take-Out Loans** – A loan financed to pay off interim loan
    - 還清 Interim 貸款用, 長期貸款來還清建築施工完的貸款
  - d. **Home Improvement Loan** – A loan financed for repairing or improving of a property.
    - 爲了維修跟增進建築物借的貸款.

### IV. Non-institutional Lenders – A lender who specialize private and individual loans.

✓ 可貸私人貸款

1. **Conventional Loans** – When loans are not guaranteed or insured by the government.
  - 不被美國政府保險的貸款
2. **Mortgage bankers (Second Mortgage Market)** – A lender who act as a middleman between the investor and the borrower, the mortgage bankers first finance the loan then sell the loans to institutional investors.
  - 貸款後, 再把貸款轉賣給投資者.

## V. Government insured loans -

1. **Federal Housing Administration (FHA loan)** - FHA does not finance loans, it insures conventional loans.
  - FHA 本身不做貸款, 他是美國政府保險銀行的貸款
2. **Department of Veterans Affairs (VA)** – A guaranteed and insured loans for American Veterans.
  - 美國軍人貸款 – 軍人專用的政府保險貸款.
3. **California Department of Veteran's Affair (CalVet)** – CalVet is a loan program for qualified veterans. Property is purchased by department of veteran affairs and then sold to veterans with a land contract; CalVet has the legal title until the loan is paid off.
  - 加州美國軍人貸款 - 房屋直接被 CalVet 買下然後賣給軍人, CalVet 使用 Land Contract 會持有產權直到貸款付完
4. **The Secondary Mortgage Market** – Where institutions buy and sell first mortgage to each other.
  - 第二市場 - 讓銀行有機會去買或賣他人的第一貸款.
    - a. Federal National Mortgage Association (Fannie Mae, FNMA)
    - b. Government National Mortgage Association (Ginnie Mae, GNMA)
    - c. Federal Home Loan Mortgage Corporation (Freddie Mac, FHLMC)

## VI. Important Acts

1. **Truth in Lending Act (Regulation Z)** - Lender must inform the borrowers how much the borrowers are paying for the credit and express all costs known as APR. This act allows borrowers to compare between lenders.
  - 爲了保護大眾而規定銀行要告訴貸款人他要付多少錢,讓大眾都可以比較價錢.
2. **Truth in Savings Act** - Lenders must inform borrowers all terms of their banking accounts.
  - 銀行必須清楚的告知顧客所有銀行帳號的條款.
3. **The Real Estate Settlement Procedure Act (RESPA)** – The act that protects the borrower by requiring lender to provide information concerning expenses. This act prohibits kickbacks (bribery) between lenders and third-party agents.
  - 限制銀行必須要給予借款人所有費用的資訊. 保護借款人的權益, 必需告知所有資訊.

# Chap 10

## Lease

## Summary

- What is leasehold?
  - ✓ 什麼是 leasehold?
- What are requirements of a lease?
  - ✓ 租約的必要條件.
- How to terminate a lease?
  - ✓ 租約如何終止?
- What are other types of leases?
  - ✓ 其他種類租約.

## I. Leasehold

1. **Leasehold** – A right to occupy a property for a temporary period.
  - 權利去暫時居住 (租)
2. **Landlord** – Owner of the property who rents out the property.
  - 房東 - 出租土地的地主
3. **Tenant** – The person who is renting the property.
  - 房客 - 付租金租土地的人
4. **Lease** – A contract that indicates a set time and conditions between the tenant and the landlord.
  - 租約 – 有時限以及條件的合約.
5. **Rent** – The money paid for the use of the property.
  - 租金 – 使用土地所付的錢
6. **Security Deposits** – The money to pay for damage or unpaid rents when the lease expires.
  - 押金 – 一個保證金, 可以在房客離開時, 來代替未付的房租或者是土地的損害
7. **Contract rent** – The rent that is indicated in the lease contract.
  - 合約上的租金 – 合約上的租金價錢, 是房客每個月該付的價錢.
8. **Economic rent** – The rent that the property is worth in an open market.
  - 目前經濟的租金 – 依照現在土地的總值, 租金應該是多少 (通常多於合約上的租金)

**Example:** Asian Express 合約上的租金是\$500, 但是如果沒有合約, 房東可以租給他人的話, 房東可以租到\$1500. \$500 是 contract rent, \$1500 是 economic rent.
9. Leasehold Estates includes
  - a. **Estate for years**
  - b. **Estate from period-to-period**
  - c. **Estate at Will**
  - d. **Estate at Sufferance**



- 
- Lessor – Landlord (房東)  
•Lessee - Tenant (房客)

## II. Requirement of a lease

1. A lease should include
  - a. **Duration of lease** (時間) – How long is the leasing contract?
  - b. **Rent** (租金) – How much is the rent?
  - c. **Payment instruction** (如何付租金) – When and how should a tenant pay for rent?
  - d. **Security Deposit** (押金) – How much is security deposit?
  - e. **Assignment and subleasing provisions** (轉租條款) – Are tenants allowed to assign or sublease?
    - i. **Assignment** – Transfer the lease to another person.
      - 整個租約轉讓
    - ii. **Sublease** – Transfer part of the lease or space to another person.
      - 部分租約轉讓
    - iii. **Sandwich lease** – When a person subleases a property, he or she holds a sandwich lease and becomes the landlord and the tenant at the same time.
      - 三明治租約 – 當房客分租給他人時，他擁有一個三明治租約，他不但是房客，也是房東。
  - f. **Liabilities for injuries and repairs** (修補的責任) – Who is responsible for injuries and repairs?
  - g. **Conditions of a lease** (租約條件) – Are there any conditions?
  - h. **Termination provisions** (如何終止) – When does a lease terminate?
  - i. **Renewal provisions** (如何續約) – How to renew?

## III. Termination of a Lease

1. **Expiration of the lease** – When the lease expires, contract ends.
  - 租約期限到期，合約終止。
2. **Lack of quiet possession** – If the landlord harasses the tenant, the tenant can terminate the lease. The tenant is entitled to quiet possession and enjoyment of the property.
  - 房客擁有安靜享受住宅，不被干擾的權利。房東不可過分干擾房客的生活。若房東違反此條款，房客有權終止租約。
3. **Repairs for habitability** – Landlord must keep the rented house under a living condition where the property will not threaten tenant's health or safety.
  - 房東必須要維持住宅的良好居住情況，會傷害到房客的健康以及生命危險的情況不可以發生。



4. **Eviction** – Court order to remove a tenant because the leasing contract has been breached.
  - 逐出 – 當房客違反租約時, 使用法律行徑逐出房客.
5. **Three Day Notice To Pay Rent or quit** – A letter that informs the tenant that he or she has three business days to pay all past due rent, vacate the premise or face an unlawful detainer.
  - 3 天付房租公告 – 法庭文書告知房客有三天的時間去付房租 (六, 日, 以及休假不算) 或者離開住宅, 不然就要收到法庭的非法佔住訴訟.
6. **Unlawful Detainer** – A lawsuit filed against tenants by the landlord to receive unpaid rent and acquire possession of the rented properties.
  - 非法佔住訴訟 – 法律行徑訴訟房客非法居住.
7. **Writ of possession** – A court order to remove a tenant within five days period.
  - Writ of possession - 逐出通知送出五天後, 法庭強行逐出房客.
8. **Surrender** – When the tenant surrender the property back to the landlord with landlord's consent.
  - 自動交出居住權利, 並得到房東的同意.
9. **Abandonment** – When the tenant just leaves the property before lease expires without landlord's consent.
  - 放棄住宅並沒有通知房東, 也永不再回來.
10. **Breach of conditions** – When a condition on the lease has not been fulfilled, the lease can be terminated.
  - 違反任何當初協議的情況, 可以使租約終止
11. **Destruction of the premises** – When the property has been destroyed, the lease is terminated.
  - 如果住宅被毀壞, 房客有權利搬出.

#### IV. Other types of lease

1. **Sale-Leaseback** – When the owner sells the property and rents it back.
  - 當地主賣了他的土地然後在租回來, 那最初的地主就變成房客.
2. **Lease-Purchase Option** – When the tenant leases a property and keeps an option to purchase it in the future.
  - 當房客租地時, 保留 option 讓以後有權利去買下這塊地.
3. **Graduated Lease** – Rental rate varies, often based on future appraisals.
  - 因為土地的增值, 租金也相同的可以增值.

4. **Gross Lease** – When tenant only pays the rent.
  - 房客只付租金.
5. **Net Lease** – When tenant pays the property tax, insurance, and other costs besides the rent.
  - 房客除了付房租還要付地稅, 保險..etc (店家)
6. **Percentage Lease** – Commercial lease where the lease pays a percentage of the monthly gross.
  - 房租是每個月的收入百分比

# Chap 11

## Escrows and Insurance policies

# Summary

- What is an escrow?
  - ✓ 什麼是 escrow
- What are some facts about escrows?
  - ✓ Escrow 的重要資訊
- How to solve a problem in escrow?
  - ✓ 如何解決一些在 escrow 會發生的問題
- Types of policies.
  - ✓ 保險種類.

**I. Escrow** – When an escrow holder acts as a neutral third party to make sure that both parties have performed all agreed conditions.

✓ Escrow 的用意是在於保障交易所有條件都達成，中立的第三方持有資金，並只在所有條件都達到後才繼續進行交易

1. **Escrow officer, holder or agent** – Employees of an escrow company.
  - Escrow company 的職員
2. **Escrow instructions** – An instruction that follows the conditions and terms in the purchase agreement. However, if the instruction conflicts with the original contract, escrow instruction is in control because it is the final contract.
  - 從 purchase agreement 拿出的條款. 如果 escrow instruction 跟 purchase agreement 有矛盾時，一般會遵守 escrow instruction 的條款.
3. **Preliminary title report** – A report by the title company, it indicates the conditions of a title such as ownership and liens or encumbrances against the property.
  - 買賣產權或貸款之前，告訴你產權資料的報告.
4. **Beneficiary statement** – A statement made by the lender, as to the current balance due to pay off a real estate loan.
  - 貸方提供資訊關於所有未付完的貸款.
5. **Proration** – When the expenses or incomes are divided proportionately to the date that escrow closes.
  - 按比例分配 – 將收入跟支出分配給買家跟賣家的過程
  - a. Items that are commonly prorated are
    - i. Property taxes (稅)
    - ii. Fire insurance (火險)
    - iii. Interest (利息)
    - iv. Rents (房租)
6. **Chain of title** – A history of a specific property such as conveyance or encumbrances.
  - 公共紀錄一個土地產權的歷史
7. **Title Insurance** – An insurance issued by the title company to protect property owners against losses result from imperfections in the title.
  - 產權保險 - 如果產權上有缺陷，他保護任何因為產權缺陷所造成的損失.
8. **Structural pest control certification report** – A report that identifies

any pests or conditions that causes pest infestation. Usually paid by the seller, but it is negotiable.

- 害蟲報告 – 有執照的公司給予的害蟲報告, 告知是否有害蟲, 是否傷害到建築物.

## II. Escrow Facts

1. Escrow instructions become a contract between two more parties.
  - 簽名後的 Escrow 指示, 會在買賣家間創有約束力的合約.
2. The escrow company acts as the dual agent of the buyer and the seller.
  - Escrow company 是買賣家雙方的 agent. 保護雙方權利
3. When all the conditions and terms have been met, then the escrow company delivers the funds and the documents.
  - 當所有條件都達成時, 資金與合約將會被送出與執行

## III. Escrow problems

1. When a dispute arises, the escrow company will freeze all actions until both parties come into terms.
  - 一但有爭執, Escrow company 停止程序直到雙方達成共識.
2. The Buyer and the seller can negotiate which escrow company to use, if the buyer and the seller desire different escrow companies, and then salespersons must work for a mutual agreement.
  - 買家跟賣家都可選擇 escrow company, 若雙方有不同的決定, agent 要當中間人讓雙方達成協議.

## IV. Types of Policies

1. **Standard policy of title insurance (California Land Title Association C.L.T.A.)** – A basic title insurance policy that is mostly used between the buyers and the lenders.
  - CLTA 產權保險 – 買家跟貸方最常使用的產權保險.
2. **Extended coverage policy** – Extended insurance that covers you against additional perils.
  - 延伸保險 - 保其他危險 (暴風, 冰暴)
3. **American land title association (A.L.T.A)** – A title insurance that insures both the home buyers and mortgage lenders.
  - ALTA 產權保險 – 買家跟貸方之間的產權保險.
4. **The California standard form fire insurance policy** – An insurance that insures against fire and lighting.
  - 住宅保險 - 保火, 跟閃電

# Chap 12

## Real Estate Taxation

# Summary

- What types of real property tax are there?
  - ✓ 地稅有哪幾種
- What happens if taxes are delinquent?
  - ✓ 當你不付稅時，會發生什麼事情？
- Property tax time table.
  - ✓ 地稅時間表
- Other information about taxes.
  - ✓ 其他關於稅的資料.



I. **Real Property Taxes** – Annually or semi-annually tax determined based on real property’s value.

✓ 房地產稅 – 因房屋價值而改變的稅 通常每一年或每半年付.

1. **Ad valorem taxes** – “According to value” in Latin. Tax that are charged according to real property’s value.
  - 稅的高低是看價值的高低
2. **Special Assessment** – Taxes for local improvement.
  - 特別的稅 – 通常是因為改善街道,下水道, 排水系統..etc 那些改善稅.
3. **The Mello-Roos Community Facilities** – Taxes for improvements on newly developing areas
  - 通常是新開發區公共設施的改善稅.  
**Example:**學校, 公園, 以及警察局
4. **Progressive tax** – Tax increases as your income increases.
  - 因為你的收入增加, 你的稅增高.
5. **Regressive tax** – Tax remain the same no matter what.
  - 無論花多少錢賺多少錢都一樣的稅.  
**Example:** sale tax.

II. **Delinquent tax.**

1. **County Assessor** – County officer who assesses the property’s value.
  - County 職員, 負責評價出地產的價值.
    - a. **Assessed value** –100% market value price of a real property.
      - 估定價值 – 地產的總賣價, 或者是市場價格.
2. **County Tax Collector** – County officer who collects taxes on real property.
  - County 職員, 負責收地產稅
3. **Delinquent Tax Sale (Book Sale)** – Annually, the county collector publishes a list of properties that are taxed delinquent for one year. The book sale gives the property owner a five year period to redeem their property, if the property owner does not pay their tax within this period, the property will be deeded over to the state.
  - 每一年, the county collector 公開出欠稅的名冊, 這上面的房子都是欠稅一年的房子. Book sale 會開始一個五年的期限, 如果稅沒被繳清, 五年之後就屬於政府的.

4. **Second sale (After five years)** – The official sale after the book sale, the property can only be redeemed if the property has not been sold at a public auction.
- 五年之後正式拍賣你的房子, 你只有在政府還沒法拍你房子前付清稅債才能拿回房子

### *Time Table*

📖 *January 1st* – *When the property tax becomes a lien on real property*

- 1月1號, 地產稅變成一個債

📖 *July 1st* – *When the city or county fiscal year starts.*

- 7月1號, 政府的財政年開始

📖 *November 1st* – *When the first payment is due and delinquent after December 10<sup>th</sup>.*

- 11月1號, 第一次付稅的時間, 12月10號便欠款.

📖 *February 1st* – *When the second payment is due, and delinquent after April 10<sup>th</sup>.*

- 2月1號, 第二次付稅的時間, 4月10號便欠款.

### **III. Other Information**

1. **Exchange** – When one income property owner exchange his or her income property with another income property owner.
- 一個人跟另一個人交換地產
  - a. Exchange must be “like kind.”
    - 一定要相似
  - b. Exchange can be tax free as long as the property owner receives a more valuable building.
    - 若要全部免稅的話, 交換得到的地產必須是要比自己舊的地產還要有價值, 並且你有付額外的錢去補足不夠的價值.

- c. **Boot** – When exchanging unequal properties, the differences paid to one of the property owner is called boot. The property owner who receives a boot receives a net gain, and therefore must pay tax.
- 房子交換時的差額, 如果要交換,  $\text{boot} + \text{商店價值} = \text{大商店價值}$ . 拿到 **Boot** 的人, 等於拿到利潤, 就要付稅.



- ◆ If Property B is worth more than Property A, then  
 $\text{Boot} + \text{Property A} = \text{Property B}$

3. **Advantage of “Sale-Leaseback”** Business – all rent can be deducted 100% from income tax.
- 抵稅時, 你的房租可以抵 100%
4. **Capital gains** – The profit.
- 利潤.

在有 DRE 認證的房地產學院註冊繳費

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每 18 天考一門學分測驗

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DRE 會將 Self-Exam Notice 寄給學生。並且指導學生上網註冊考試時間。

指紋認證 (RE 237)

請至以下網站搜尋印指紋地點

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考場考完試後 3-5 天考試結果會在網站上公佈

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