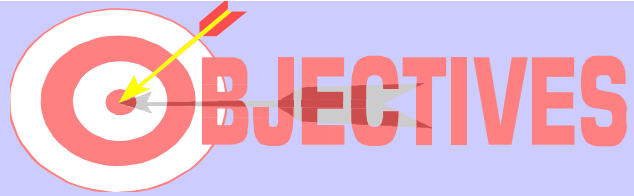


# Chapter 13

## Government Regulations





## STUDENT LEARNING OUTCOMES (SLOs):

1. Define the term planning and explain the purpose of zoning ordinances.
2. Describe the key features of the Subdivision Map Act and the Subdivided Lands Act.
3. Discuss the differences among a standard subdivision, condominium (condo), planned unit development community apartment (co-op), timeshare project and land projects.
4. List the major fair housing laws that prohibit discrimination in the sale or rental of real estate.
5. Define a business opportunity and discuss buying and selling business opportunities.
6. Discuss mobile home sale requirements of licensees



# I. Government Land Use Planning

- A. Planning – thinking in advance
- B. California law requires inc. city or county to have **General Plan**, updated every five years, to determine:
  - Growth patterns, and goals
  - Develop comprehensive economic plan
  - Purpose of General plan is:
    - Indicate long range plans
    - Reduce congestion
    - Include input from neighbors and the community
    - Study social, economic and physical aspects
  - All General plans must have housing element



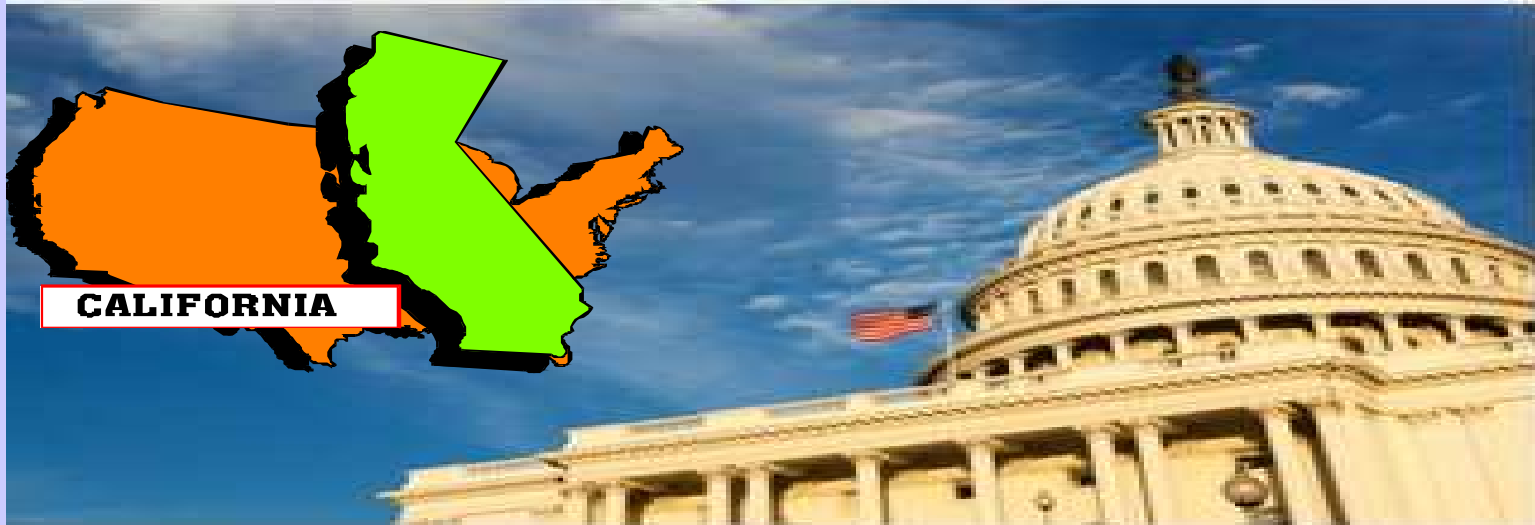
#### 4. Tools to implement the General plan

– Right of **planning commission** to enact zoning laws and enforce – based on **police power**

– Zoning



- Includes provisions for land use, traffic and housing
- Separates non-harmonious land uses
- Designed to preserve property values
- Changes are usually initiated by groups of property owners
- Variances in zoning may be sought by individual



- Other General Plan Tools
  - Building codes
  - Health codes
  - Subdivision regulation
  - Height limits



## C. Building and health codes must comply with state housing law

- Provide minimum standards of design, construction, use, occupancy and maintenance of buildings
- Building permits are secured from local building departments
- Sanitation problems should be reported to local health department



## D. Subdivision laws

1. A division of land in California is controlled by two basic laws.
  - a. The **Subdivision Map Act** is administered by the local city or county government
    - 1) Regulates filing of subdivision or parcel maps
    - 2) Defines subdivision as a parcel divided into two or more lots
    - 3) Land must be contiguous
    - 4) Subdivision Map Act is concerned with the physical aspects of property



b. The Subdivided Lands Act is administered by the California Real Estate Commissioner

1. Defines a subdivision as five or more lots.

Illegal practice = Four-by Fouring

2. California Real Estate Commissioner requires a public report

- a) Preliminary public report good for one year. Reservations can be taken but no lots can be sold
- b) Final public report good for five years or until material change occurs such as:
  1. Change in purchase contract form
  2. Change in physical plans for the project
  3. A sale of 5 or more lots to a single purchaser
- c) Purchaser must receive a copy of final public report and sign a receipt before it be purchased.
- d) The developer must keep the receipt in his files for at least 3 years.



## E. Projects other than standard subdivisions

### 1. A CONDO – *Condominium*

Exclusive interest in living unit plus common interest in remainder

a. Condo developments have a **Homeowner Association** (HOA) with an owner-elected governing board of directors

- Purchaser must receive a copy of final public report
- Developer must keep receipt for a least 3 years
- Projects other than standard subdivisions
  - Condos may be residential, commercial or industrial



# Real Estate Projects

## 2. Planned Unit Development (PUD)

- lot and building ownership in fee simple
- Tenants in common interest in common areas

## 3. Community Apartment Project

- Individual has an undivided interest in the land
- Exclusive right of occupancy for their apartment

## 4. Stock Cooperative Project

- Stock owners have exclusive right of occupancy of specific portion
- Most are apartment buildings
- Tax consequences must be considered



# Projects

## 5. Time-share ownership

- a. Buyer has 72 hour right of rescission
- b. Two types of ownership
  - 1) Time-share estate (deeded interest)
  - 2) Time-share use (right of occupancy)

- ## 6. Land projects – speculative subdivisions of 50 or more lots in sparsely populated areas
- Buyer has 14 days to rescind



## F. Other state laws governing land usage

### 1. California Environmental Quality Act (CEQA)

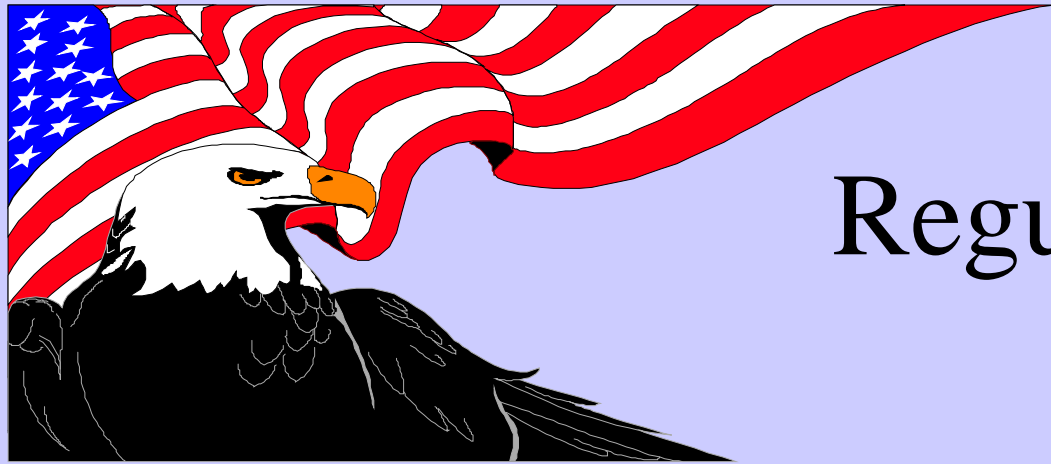
- Requires developers to provide environmental impact report (EIR) Pg 13-3

### 2. California Coastline Conservation Act

- Regulates request for building permits along the coastline

### • California Special Studies Zones Act (Alquist- Priolo)

- Requires geological reports along *earthquake* faults



# G. Federal Law Regulating Land Sales (Interstate Land Sales Full Disclosure Act)

1. Applies to sale or lease of lots in a subdivision in interstate commerce
2. Administered by Office of Interstate Land Sales Registration Division of the Dept of Housing and Urban Development (HUD)
3. Developers must give disclosures in HUD report
4. HUD report does not mean government has approved or disapproved project



## II. Fair Housing Laws and Regulations

- Prohibits discrimination
  - A. California Fair Employment and Housing Act
    1. Known as **Rumford** Act
    2. Created Fair Employment and Housing Commission
    3. Forbids discrimination in the sale, rental, leasing or financing of housing
  - B. **Unruh** Civil Rights Act
    1. California anti-discrimination law
    2. Makes unlawful for person in **business** to discriminate in providing services

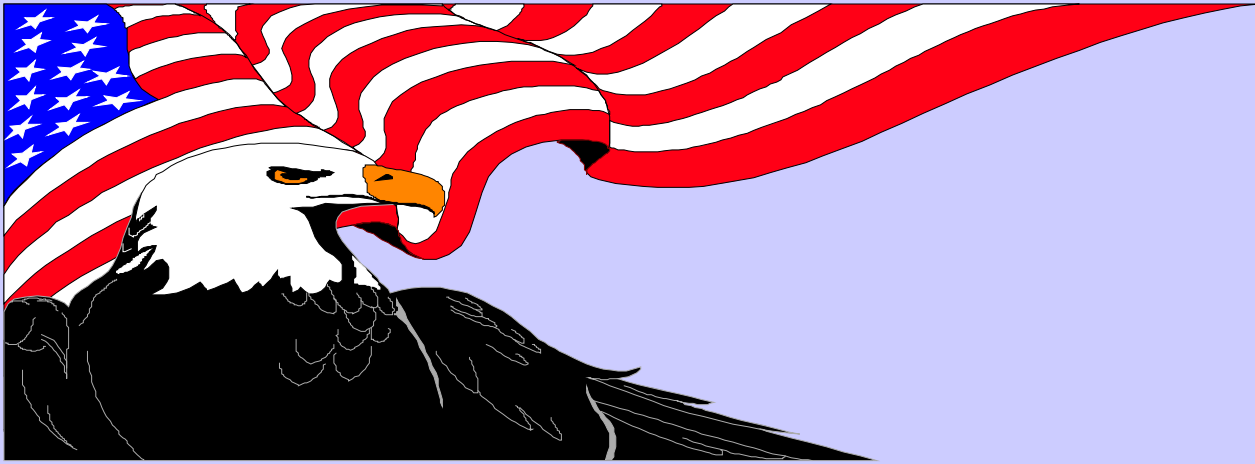


## C. Housing Financial Discrimination Act

1. Renamed the **Holden** Act
2. Prohibits California lending institutions from **redlining**

## D. The Real Estate Commissioner's regulations prohibiting discriminatory practices by licensees

1. Have force and effect of law
2. Basis for disciplinary action
  - License suspension or revocation
  - Fine
  - Imprisonment



## E. Federal Fair Housing Act

1. Civil Rights Act of 1968
2. Landmark case – **Jones vs. Mayer**
3. Prohibits discrimination throughout USA
4. Prohibits **blockbusting**, **steering**, and **redlining**
5. Enforce by HUD, individuals and U.S. Attorney General



### III. Business Opportunity Brokerage

A. Consists of sale of existing business, including inventories, trade fixtures, equipment, goodwill etc.

- Involve personal property (real property involved in sale requires separate escrow)
- Agent must have valid real estate license

B. Sales taxes collected must be remitted quarterly

- Successor's liability on unpaid sales tax
- Seller must provide buyer with clearance receipt from the Board of Equalization



## C. Financial statements used

– **Balance sheet** indicates financial status, shows:

- Assets
- Accounts receivable
- Goodwill
- Inventory
- Liabilities
- Net worth



## 2. Income statement (profit and loss)

- Sales or income during period
- Expenses incurred during period
- Net profit

## 3. The Alcoholic Beverage Control Act (ABC)

- License issued to qualified applicants for approved locations
- If held for at least five years, can be sold at market value
- Buyer must obtain approval before use of license



4. Bulk Sales rules apply when business is sold that involves inventory or financed or leased equipment
  - a. Bulk sale is transfer of inventory of business
  - b. Party transferring must post notice of sale 12 business days before
  - c. If not properly notified, creditors may hold new buyer liable



## D. Uniform Commercial Code (UCC)

- Creditor files a UCC-1 form with Secretary of State at time of extending credit to protect their security interest
- When paid, creditor files a UCC-2 form

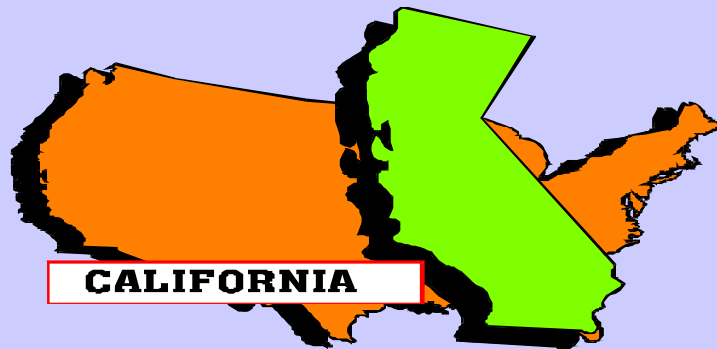




## Tax Terms



- Salary: business income, profits, interest, dividends, rents, royalties, gain on the sale of real estate
- Capital asset: property owned for personal pleasure
- Basis: original price determined by acquisition method:
  - Purchase or option
  - Gift, inheritance
  - Tax-deferred exchange
  - Compensation for services
- Adjusted basis: original price plus capital improvements minus depreciation
- Capital Improvement: increases useful life



## IV. Mobile Home Sales

- A. Purchased after July 1, 1980 can be taxed as real estate if attached to a **permanent** foundation
- B. Real estate licensee can sell a used mobile **home** if mobile home has been registered with Department of Housing and Community Development
- C. Loan uses security agreement instead of Deed of Trust
- D. Licensees should read mobile home Residency Law Civil Code 798 and Mobile Home Parks Act Sections 18200 of Health and Safety Code



**I'M GOING HOME**

