

# INTERSTATE MAIL ORDER LAND SALES

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## HEARINGS

BEFORE THE

SUBCOMMITTEE ON FRAUDS AND MISREPRESENTATIONS AFFECTING THE ELDERLY

OF THE

SPECIAL COMMITTEE ON AGING

UNITED STATES SENATE

EIGHTY-EIGHTH CONGRESS

SECOND SESSION

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PART 2

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MAY 19, 1964

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NOTE.—Hearings on interstate mail order land sales were held and they are identified as follows:

Part 1—Washington, D.C., May 18, 1964.

Part 2—Washington, D.C., May 19, 1964.

Part 3—Washington, D.C., May 20, 1964.

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## MAIL ORDER LAND SALES

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TUESDAY, MAY 19, 1964

U.S. SENATE,  
SUBCOMMITTEE ON FRAUDS AND MISREPRESENTATIONS  
AFFECTING THE ELDERLY OF THE SPECIAL COMMITTEE ON AGING,  
*Washington, D.C.*

The subcommittee met at 9:20 a.m., pursuant to recess, in room 4232, New Senate Office Building, Senator Harrison A. Williams, Jr. (chairman of the subcommittee), presiding.

Present: Senators Williams, Yarborough, and Smathers.

Also present: William E. Oriol, professional staff member; Gerald P. Nye, minority professional staff member; Patricia Slinkard, chief clerk; Mary Keeley, staff assistant; and Marion Keever, minority chief clerk.

Senator WILLIAMS. The subcommittee will come to order.

Our first witness will be Mr. Oliver Payne, assistant attorney general from the State of Mexico.

### STATEMENT OF OLIVER PAYNE, ASSISTANT ATTORNEY GENERAL, SANTA FE, N. MEX.

Mr. PAYNE. Mr. Chairman, I have a prepared statement.

In the 1963 regular session of the New Mexico Legislature a land subdivision act was introduced in the State senate.

Basically, this act was patterned after the California law and contained, among others, the following features:

Under the terms of the introduced bill, before any subdivided land was offered for sale or lease, the owner, his agent, or subdivider had to notify the State real estate commission, in writing, of his intention to sell or lease. This notice of intention had to be under oath and was required to contain a great deal of data, including a statement of the conditions of the title to the subdivided land and whether there were any blanket encumbrances thereon.

It also had to contain a statement of the terms and conditions on which it was intended to dispose of the subdivided land. The bill also provided that upon receipt of such notice of intention, the commission would investigate the subdivision and after such investigation report its findings in writing.

Each prospective purchaser or lessee was to be given a copy of the report by the owner, agent, or subdivider. It also provided for the filing of a corporate surety bond to the State for the benefit and protection of purchasers and lessees in an amount and under terms prescribed by the commission and approved as to form by the attorney general.



This bill, as drafted, met considerable opposition, particularly from the real estate dealers, and a committee substitute was drafted and enacted. The effective date of the committee substitute was September 20, 1963. This act provides the only control over land subdivisions in New Mexico—at least with the exception of clear fraud cases under the criminal code.

Prior to September 20, 1963, the office of the attorney general in New Mexico requested all subdividers to send copies of their advertising for screening as to misleading statements. By May 1, 1964, more than 20 different subdivisions had submitted advertising copy for examination. Actually the standards for advertising set up by the Land Subdivision Act are fairly easy to meet.

The Land Subdivision Act was simply a first step and it needs to be strengthened in certain respects. It does not provide for presale registration and inspection. It does not provide for any control over the subdivider by the State real estate commission. It only allows the attorney general or the district attorney to enforce the act after a subdivider has knowingly violated any of its provisions.

Another problem with the act is in the definition of "subdivided land." The test is in part subjective and is made to depend on whether or not the subdivider has "proposed" to divide the land into 25 or more parcels. Since the subdivider does not have to register with any commission or agency it is difficult to determine whether the subdivider proposes to divide the land into 25 parcels. The Land Subdivision Act applies only to subdivided land so the definition section is important.

The office of the attorney general plans to suggest necessary amendments to the Land Subdivision Act at the next session of the legislature in January 1965. Our proposals will be to adopt either the Florida law, or the California law.

Since there is no complete regulatory system for land developments, most of the information obtained by the attorney general and the district attorneys comes from individual complaints made by purchasers. Investigations following such complaints have provided additional information.

We have received only a few complaints regarding advertising. The bulk of the complaints received thus far are in connection with the title to the property purchased by the complainant. These complaints generally refer to two particular land subdivisions; namely one operated by Great Southwestern Land Co., near Taos, N. Mex., and the other is Antelope Springs Ranches near Estancia, N. Mex.

The major complaints received with respect to the Great Southwestern Development were due to the inability of the county clerk to record the warranty deeds as fast as they were being issued. The clerk's office was small and not accustomed to doing business on the scale demanded by the development near Taos.

Most of the tracts in this development were "sold" at the World's Fair in Seattle. Persons who signed a card were advised that they had "won" a tract and had only to pay the closing costs. Apparently all who signed were "winners." A mail fraud action against the promoters of this development was brought in the U.S. district court in Albuquerque, N. Mex., by the U.S. attorney. The trial resulted in a hung jury and I do not know whether the U.S. attorney intends to retry the case.

After preparing this statement, the U.S. attorney in Albuquerque advised me the case will be set for retrial probably within 30 days.

The other subdivision that has just recently caused numerous problems is the Antelope Springs development. Virtually, all of the operations of this development, the first in the State, had ceased prior to the effective date of the Land Subdivision Act. Nonetheless, this development is presently under extensive investigation by the State attorney general's office and, therefore, the detail that can be presented by this statement is limited.

To the best of our knowledge most of the advertising concerning Antelope Springs was done by radio and television from Albuquerque stations. Most purchasers lived in the Albuquerque area, but a few lived outside the State. The mails were used to correspond with these out-of-State purchasers but as yet our office has found no direct solicitation by use of the mails. The postal inspectors have been notified concerning the matter but we are unaware of any developments which they have discovered.

Public records on file with the State corporation commission and with the county clerk in the county in which the land was located have been very revealing with respect to the operations concerning the development. These records show that three individuals from Arizona were the principal developers of the subdivision. They, representing Antelope Springs Ranches, Inc., purchased the land which eventually became the subdivision from various farmers in the county. More than 3,000 acres were purchased for development.

Each purchase by the subdividers was accomplished by encumbering the land so that the farmers retained a purchase money security interest. In some instances the land was covered by a purchase money mortgage and in some instances it was purchased pursuant to real estate contract with an appropriate escrow letter to the escrow agent.

In all instances Antelope Springs Ranches, Inc., defaulted in making payment on the encumbrances and the original sellers were forced to foreclose. The contracts selling individual 5-acre parcels had, in the meantime, been assigned to finance companies and other individuals who could not possibly have delivered title to the land upon the completion of the contract payments by the purchasers of individual tracts.

The money received by Antelope Springs was not used to make the mortgage payments on the mortgage against their interest in the property and the mortgagees, therefore, have had to foreclose. Over 500 sales were made on tracts in Antelope Springs and the majority of these sales were made by installment contract, many to older people.

The minimum selling price of a single 5-acre tract was \$1,000 and prices ranged \$200 and \$300 more on better locations. Only two sales of record were made by this company after the effective date of the Land Subdivision Act and these two sales are being investigated for compliance with the act.

Older sales are being examined, as well as the entire promotion, for possible violation of general fraud provisions in existence before the effective date of the New Mexico Land Subdivision Act.

Other subdivisions operating in New Mexico have not presented as many problems to this office, at least up to this time, as Antelope Springs. The time of the two investigators for the attorney general's office have been largely occupied with the investigation of that de-

velopment due to the urgency of the situation. In this one operation purchasers have paid in several hundred thousand dollars and are now unable to receive the land for which they contracted.

In all, there have been 21 subdivisions which have begun operations in New Mexico. Of these 21, only a few have had their advertising "approved" by the attorney general's office. Since our law contains no registration or continuing disclosure provision, it has been difficult to keep abreast of all operations.

Fiesta Ranchos is a subdivision located near Espanola, N. Mex., about which the subcommittee has expressed interest. Our office has received virtually no complaints concerning this subdivision. The brochures do emphasize the green of the trees and grass in an exaggerated manner. This development advertises that there is State-supervised title protection. State supervision does not go that far since the only requirement in this respect is that blanket encumbrances be disclosed to purchasers unless adequate release provisions are provided.

Most of the sales of Fiesta Ranchos are made by mail and interstate advertising. At the moment the headquarters of the operation is located in Oakland, Calif.

I personally inspected this subdivision on May 12, 1964. The area is accessible by a winding 3-mile dirt road. It is located on top of the Black Mesa which is some 3 miles wide and 7 miles long. Volcanic rock is prevalent on this mesa which is covered largely with sagebrush. There are no stakes or markers for individual tracts.

There is a road across the top of the level mesa and several side roads. The first water well drilled caved in and a second is now being drilled. The driller informed me that the well is now down to 868 feet and that he anticipates reaching water at 1,000 feet since the river level is 1,070 feet.

He also advised me that the well has cost \$12,000 thus far, and, further, that it is extremely doubtful whether this one well could supply water to all who might purchase tracts of land on the mesa.

There is one high-power electric transmission line which crosses the mesa. There are no facilities for natural gas or telephones. One local person has purchased 26 acres from Fiesta Ranchos for \$3,000. He stated that he is satisfied but, unlike most prospective purchasers, he grazes sheep on the acreage.

I was advised by a Mr. Kroesen, who identified himself as the brother of the owner, that the selling program was stopped in March of this year. Most of the sales being consummated by mail, I have no way of verifying this statement.

In summary, our experience indicates that our State law needs to provide a regulatory agency, such as our real estate commission, with adequate authority to control local selling. As for Federal control under the mail fraud provisions of Federal law, thus far it has been ineffective in controlling advertising and protecting prospective purchasers.

That concludes my statement, Mr. Chairman.

Senator WILLIAMS. Thank you very much, Mr. Payne.

I have some of the advertising here for Fiesta Ranchos. What this does, pictorially, is to describe the recreation somewhere out there in New Mexico. It does not have anything to do with this property

which, I understand, is accessible up a winding, hairpin turn, dirt road to the top of this mesa where there is no water, no light, none of the amenities for living.

And yet to look at this, why, you would think you were indeed having the opportunity to live out the millennium, skiing, fishing, pretty girls, the whole works.

Mr. PAYNE. That is right, sir. I might point out to the chairman, however, that most of those items they list are relatively close to Black Mesa itself.

Senator WILLIAMS. You would never be able to live close, because it would cost a fortune to put a house up there on the mesa.

Mr. PAYNE. It would cost considerable, yes.

Senator WILLIAMS. One well cost \$12,000.

Mr. PAYNE. Up to this point.

Senator WILLIAMS. You say there is one powerline?

Mr. PAYNE. Yes, sir; it traverses the mesa.

Senator WILLIAMS. When do you think there will be electricity, telephones, roads?

Mr. PAYNE. As far as natural gas and telephones are concerned, I see no possibility of it in the near future. Now the roads in New Mexico, you get used to that type of road. I mean, the road really is not so bad.

Senator WILLIAMS. How close is the nearest settled community with schools and shops and the rest?

Mr. PAYNE. Well, the biggest area where you find all of those things would be Espanola and I would say that is about 9 miles.

Senator WILLIAMS. Is this sold as retirement? It is mentioned. Certainly you could not go out there with your family and kids and expect them to go to school.

Mr. PAYNE. No, sir; not now. This is the very next subdivision our office is going to investigate.

Senator WILLIAMS. I think our man, Bill Oriol, has been there. Are you now a salesman for Fiesta Ranchos?

Mr. ORIOL. It is a nice place to visit, but I would not want to retire there.

Senator WILLIAMS. Senator Yarborough.

Senator YARBOROUGH. I had one question only and this will sure answer it. I was going to ask if Black Mesa is near the Black River.

Mr. PAYNE. No, sir; it is not. It is located near the Rio Grande River.

Senator YARBOROUGH. I noticed that on the brochure. Mr. Chairman, having lived in El Paso for three and a half years, I can understand and appreciate Mr. Payne's statement about roads in some of the vast areas in the West where very few people live per square mile. It just is not feasible to build expensive tarred or concrete roads in some areas, when you consider population per square mile.

This week in U.S. News & World Report there are comments on the boom in New Mexico and Nevada. If that continues, we will soon have those roads.

How did you refer to your ride?

Mr. ORIOL. Hair raising.

Senator YARBOROUGH. I assure you that road could have been described that way from El Paso to what is now Truth or Consequences, N. Mex.

Mr. PAYNE. Incidentally, Mr. Oriol, we found a new way out.

Mr. ORIOL. In fact, I had quite a struggle trying to find that one entrance. I was told that was new and the only one.

Senator WILLIAMS. How many lots have been sold in Fiesta Ranchos?

Mr. PAYNE. Mr. Chairman, we really do not have any way of knowing since, apparently, most of them have been sold by mail, and since we have no preregistration law and no continuing disclosure requirement, we just flat cannot find out.

Senator WILLIAMS. I know your Governor is earnest and vigilant in trying to improve the situation through tighter laws.

Mr. PAYNE. Yes, sir; he recommended passage of this law which was introduced, which is basically the California law, but he could not get it done.

Senator WILLIAMS. What are the prospects of improving your situation in New Mexico through a California-Oregon program type of legislation?

Mr. PAYNE. I think they are extremely good, in view of the experience at Antelope Springs. You see, what happened was, no one found out there was a blanket encumbrance on this property until the first person paid off his property and could not get a deed. And this was the first one that happened, and now hundreds are coming in.

They just had no title to deliver. We are seriously considering two or three criminal actions in that case.

Senator WILLIAMS. People are really in a whiplash here. They are grossly oversold with the advertising and the pitch. Having been oversold and taken the bait, and if they do pay up, in some of these cases they cannot get title. This is a very dramatic bit of testimony you have given us and it appears that at this time the State responsibility affecting prospective purchases is spotty, indeed.

Mr. PAYNE. Yes, we need a stronger law. There is no doubt about it, Mr. Chairman.

Senator WILLIAMS. Do you think there is a law at the national level here regarding these interstate land sales?

Mr. PAYNE. Well, the one case that has been prosecuted in our Federal courts ended up in a hung jury.

Senator WILLIAMS. That was under the mail fraud statute?

Mr. PAYNE. Yes, sir.

Senator WILLIAMS. The burden of proof is heavy, indeed, under the mail fraud statutes. All of the fingers of fraud must be shown and a lot of this is slippery misrepresentation, not hard and fast fraud. But the States like New York and California, with their registration and their requirement that they get a presale look at what is being done, is needed protection.

Mr. PAYNE. I think that unless all the States come to that, that we will have Federal regulation. Somebody has to protect the purchaser.

Senator WILLIAMS. Really, I think the key here is around the proposition of disclosure, full, fair disclosure, of what you have and what you are selling.

Mr. PAYNE. Yes, sir.

Senator WILLIAMS. If this can be disseminated, then let the buyer beware. But without it, the old principle of caveat emptor is harsh when you are buying on the basis of that magnificent brochure at a distance of 2,000 miles. And obviously, you cannot go and see your property, most people could not. They could not afford it. They buy now on a monthly installment and look for that fine day when they will be able to go there.

We had the postal worker from Long Island yesterday. We have the stories of many policemen for the city of New York. They did not have the money to go there.

Mr. PAYNE. Fortunately, a number of people did write our office before they bought and we advised them most strongly not to buy unless they had a chance to see it. In fact, we drew up a form letter, we got so many letters.

Senator WILLIAMS. That has been most helpful. I certainly hope you are successful in getting the legislation you need.

Mr. PAYNE. Our office is going to push it, along with the Governor.

Senator WILLIAMS. Senator YARBOROUGH.

Senator YARBOROUGH. Mr. Payne, you have looked at this area, Fiesta Ranchos?

Mr. PAYNE. Yes, sir.

Senator YARBOROUGH. Is there any water there? You mentioned drilling a well down a thousand feet. Is that the only hope?

Mr. PAYNE. They had one well, Senator, and it caved in and it was producing pretty well.

Senator YARBOROUGH. How deep was that well?

Mr. PAYNE. It was 1,000 feet deep.

Senator YARBOROUGH. That is very expensive, to drill a well 1,000 feet.

Mr. PAYNE. Yes, sir. The well they have now is down only 868 feet and has cost \$12,000.

Senator YARBOROUGH. I noticed in this brochure and I have seen others, some from Colorado, they create the illusion that there is water there. This one has this: "Today in clear, bright trout streams it seems that the man can reach out and touch the fish."

In another place it says, "Between the Rio Grande and the Ojo Caliente Rivers is a rich green mesa."

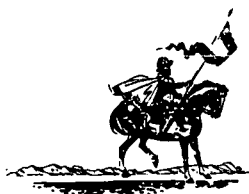
And here it says, "Close to fishing, riding, through lush Kit Carson and Santa Fe National Parks."

All of these create the illusion that there is water everywhere.

Mr. PAYNE. The closest water is nearly 3 miles.

Senator YARBOROUGH. Nearly all of the sales that I have seen in these dry lands of the West have created the illusion that there was plenty of water there. In many of those areas, people say, "We would rather have water than oil," the ones who actually live there.

(The information referred to follows:)



## Fiesta Ranchos

P. O. BOX 788, SANTA FE, NEW MEXICO

The True Facts  
Are More Exciting  
Than Fiction!

The sun warms the earth 365 days a year in New Mexico. Here, at Fiesta Ranchos, in the Land of Enchantment, your lungs will draw in non-humid, unfouled, untainted sunshine air all year round. The record proves that this is the most healthful climate in the United States. Naturally air-conditioned in the summer time and brilliantly sunny in the winter time, New Mexico is acclaimed "Heaven on Earth".

Thousands of people have grown rich on the California and Florida boom periods. Now the boom growth has spread to the southwest. Since 1947 the Southwest has become the fastest growing section in the United States. Population has zoomed. Towns, sleepy towns have turned into thriving cities. The record of growth has truly been fantastic. The future of the Southwest is predicted by the flowing in of industry, the unmatched climate, and scenic beauty.

Obviously, land values have risen astronomically. In Phoenix, in 1941, ranch land right next to the town could have been bought for approximately \$250 for a 100-foot lot, and today, 20 years later, the same lot would cost up to 50 times more. Tucson, where a 5-acre parcel once had a price tag of a few hundred dollars in 1941 now sells for more than \$100,000. This story is heard over and over again throughout the Southwest.

Arizona was the beginning of the Southwest boom. The fantastic prices for land in this state today is a dramatic testimony of its head start. When people discovered that Arizona had no monopoly on the climate and beauty of the Southwest, but that New Mexico, if anything, is lovelier than its next-door neighbor, the directions spread out. The search was on for rolling land in the form of low-cost ranches in the path of progress. Today, New Mexico stands on the threshold of boom times. In the next five years land values are expected to duplicate the fantastic growth record of Arizona. The Fiesta Ranchos acreage falls into this category.

Reserve your land today in Fiesta Ranchos because there is no question that it will be sold out quickly. As soon as we receive your deposit, we will reserve your land and send you full particulars including purchase agreement and a map showing the location of your acreage.

Opportunity seldom knocks twice. Rush your reservation in today so that we may protect your interest and reserve your land.

Sincerely,

*B. Koch*

Bud Koch



Senator WILLIAMS. The cover does exactly what Senator Yarborough is saying. It does not show the mesa. It is taken at another level and all it shows is the Rio Grande and the hills behind it.

Mr. PAYNE. I found where they took this picture, Senator. It is about halfway up the mesa looking the other way, away from the subdivision. But I believe this particular subdivision may violate our Land Subdivision Act, weak though it may be, and if it does, we will shut them down.

Senator YARBOROUGH. Mr. Payne, in El Paso some years ago we tried for mail fraud and sent to the penitentiary people selling land near El Paso for orange groves. Now they are no longer advertising for orange groves.

Mr. PAYNE. No, sir; I have not seen any of those.

Senator YARBOROUGH. I have no further questions, Mr. Chairman.

Senator WILLIAMS. Thank you very much, Mr. Payne.

Now we have a panel from Florida: Morton Paulson, business editor of the News-Journal newspapers from Daytona Beach; Robert Doyle, planning director of East-Central Florida Regional Planning Council, Titusville; and Warren L. Greenwood, former president, board of realtors, Daytona Beach.



STATEMENTS OF MORTON PAULSON, BUSINESS EDITOR OF NEWS-JOURNAL NEWSPAPERS, DAYTONA BEACH; ROBERT DOYLE, PLANNING DIRECTOR OF EAST-CENTRAL FLORIDA REGIONAL PLANNING COUNCIL, TITUSVILLE; AND WARREN L. GREENWOOD, FORMER PRESIDENT, BOARD OF REALTORS, DAYTONA BEACH

Senator WILLIAMS. We certainly welcome you here with us this morning.

I notice your attendance record is perfect. You gentlemen were here all yesterday and here bright and early this morning. Thank you for being with us.

Mr. PAULSON. Mr. Chairman, distinguished Senators, we appreciate the opportunity to be here and testify.

I would like to show you a few specific examples of "investment acreage" promotions that are operating in Florida today. I have picked these pretty much at random. Mr. Greenwood and Mr. Doyle will follow up with their views on how they rate land of this type as a speculative investment. First, let's take a look at Florida Ranchette Acres.

Florida Ranchette Acres is a subdivision about 10 miles southwest of Daytona Beach. It consists of four sections, or 4 square miles, of unimproved land. The promoters are selling what they call "ranchettes." A ranchette is an acre and a quarter of the land.

Most of the property has no roads or drainage facilities, and no clearing has been done. The ranchettes are advertised as speculative investments. They are priced at \$695, \$10 down and \$10 a month.

And here's a letter which this company sends to its prospects. Let me read this paragraph:

We have recently made arrangements with Southern Air Built Homes, Inc., of Punta Gorda, Fla., to build a model home on our property; the same consists of two bedrooms, one bath, barn and carport with a white slat board fence surrounding the entire  $1\frac{1}{4}$  acres. This model is available to ranchette owners for approximately \$13,500.

(The letter follows:)

FLORIDA RANCHETTES, INC.,  
Miami, Fla., April 15, 1964.

Mr. BRUCE DEUTSCH,  
Riverside, Calif.

DEAR MR. DEUTSCH: Thank you for your recent inquiry letter for information regarding Florida Ranchettes.

Our parcels are sold on the basis of  $1\frac{1}{4}$ -acre tracts, \$10 down and \$10 per month, of which your first \$10 is both a downpayment and first month's payment. To date we have approximately 650 accounts, people that have bought either as an investment or they are interested in the construction of a home in the near future.

We have recently made arrangements with Southern Air Built Homes, Inc., of Punta Gorda, Fla., to build a model home on our property, the same consists of two bedrooms, one bath, barn, and carport with a white slat board fence surrounding the entire  $1\frac{1}{4}$  acres. This model is available to ranchette owners for approximately \$13,500.

The current price for  $1\frac{1}{4}$ -acre tracts is \$695, payable as explained above, without any interest charges or hidden costs. The only other expense incurred would be the payment of taxes which run approximately \$2.62 per year. We have gone to a considerable expense to assure the value of the land by digging the proper drainage canals and putting in access roadways, all beyond our commitment to our buyers.

We are now in the process of having new brochures printed and as soon as they are available we will mail you same. We do hope you will consider the advantages of being located in this part of Florida in making your decision regarding the purchase of property.

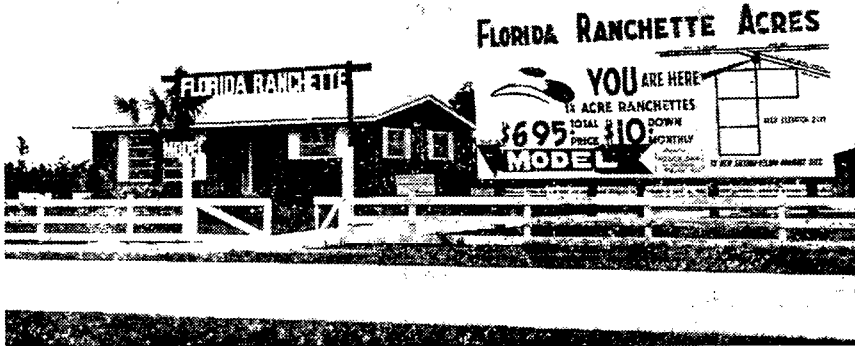
If we can be of any further assistance, please do not hesitate to contact us.

Sincerely yours,

JUAN G. ANDREU, *Vice President.*

Mr. PAULSON. In advertising and promoting this property, the promoters say that it has great "profit potential." They infer that an investor can double or triple his money. They don't say he can go out and live on the property. They aren't permitted to advertise the tracts as homesites because of the lack of improvements.

However, they have done this: They have erected a handsome model home on State Road 44, about a half mile north of the property they're selling. Here's a picture of it.



Here's another closeup picture of the model and there is a sign in front saying, "We build on your lot." Now, here's a picture of the road leading to the "ranchettes." And here's a picture of one of the ranchettes. (See p. 136.)

Senator YARBOROUGH. Is that water?

Mr. PAULSON. It is a cypress swamp.

Senator YARBOROUGH. Is this near the Everglades?

Mr. PAULSON. No, this is in Volusia County. The subdivision is about 14 miles from Daytona Beach. Of course, all of this property does not look like that. Here is another view of it.

Senator YARBOROUGH. How deep is the water there?

Mr. PAULSON. It varies. I would just have to roughly guess that it is anywhere from 2 to 4 feet, depending on the season of the year. During the rainy season, it is pretty well flooded.

Senator WILLIAMS. Drainage would be a tremendous problem. You could not drain that area lot by lot. It has to be the whole area.

Mr. PAULSON. That is true.

Senator WILLIAMS. Are they doing anything about drainage?

Mr. PAULSON. Let me comment on that in just a minute. I'd like to read another statement from the company's letter:

We have gone to considerable expense to assure the value of the land by digging the proper drainage canals and putting in access roadways \* \* \*.



Two views of Florida Ranchette Acres.

I checked that statement with Mr. John McWhirter, the executive director of the Florida Installment Land Sales Board, the State agency that regulates promotions of this kind. He said that Florida Ranchette Acres has not been approved as a homesite subdivision, that the company has no authority to advertise homesites, and there's a question about whether this construction they claim to be doing is a road or a drainage canal. When I told him about this letter that I received, I furnished him with a copy of it and he said he was going to take the necessary steps to correct any misstatements that they are making in there, and I am sure that will be done.

According to the records of the U.S. Soil Conservation District, one-third of the land in Florida Ranchette Acres is solid cypress swamps.

The property is in an old drainage district which was abolished in 1961. Many years before, the district went into hock for \$1.5 million in attempting to drain 55,000 acres of cattle and farm country that included Florida Ranchette Acres. The project was pretty much of a flop, and was finally abandoned.

Senator WILLIAMS. Before we get off this one, how are the individual lots defined or marked in that swamp?

Mr. PAULSON. That is all by metes and bounds.

Senator WILLIAMS. Are the corners staked?

Mr. PAULSON. I do not believe they are. But I could not say definitely.

Mr. GREENWOOD. They are not staked. They do not usually stake them. They describe them on a plat, but insofar as staking them, I have not ever seen a stake at any of these.

Senator WILLIAMS. Somebody is going to be building a tremendous house in somebody else's swamp out there.

Each lot is an acre and a quarter?

Mr. PAULSON. Yes, sir.

Senator WILLIAMS. Is there a reason for that?

Mr. PAULSON. I believe that many of the counties in Florida have plat laws which require a subdivider who subdivides in lots of 1 acre or less to make the basic improvements, drainage, roads, and provide sanitation facilities.

Senator WILLIAMS. If you get over an acre, there is not this requirement?

Mr. PAULSON. That's right. They all sell by an acre and a quarter and up sizes, so that indicates that the plat law is probably the reason for it.

Senator WILLIAMS. Do you know how many sales have been made in Ranchettes?

Mr. PAULSON. That letter says—

To date we have approximately 650 accounts, people that have bought either as an investment or they are interested in the construction of a home in the near future.

Senator WILLIAMS. They wrote you that?

Mr. PAULSON. They did not write it to me. They wrote it to a man out in California. He is a friend of mine and he sent it to me.

Senator YARBOROUGH. I think we have a little copyright infringement from that Texas hat they are putting on there. That is mis-

leading, representing that that is Texas-style land on your good Florida water.

Mr. PAULSON. This is the Xerox copy. The original is in color.

Senator WILLIAMS. All right, proceed.

Mr. PAULSON. Now, let's take a look at another "investment acreage" subdivision. This one is called University Highlands. It is one of several promotions of the Firstamerica Development Corp., of Hollywood, Fla.

University Highlands is about 12 miles west of Daytona Beach and takes in more than 12,000 acres. The land here is also being sold in acre-and-a-quarter parcels—at a price of \$695 an acre, \$1 down and \$10 a month, plus 5 percent interest on the unpaid balance. The tracts are being advertised all over the country and sold by mail as speculative investments—not homesites.

I have here one of the advertising brochures. On the envelope it says that Firstamerica "opens the door to profit potential." I might mention that this company has sold land to thousands and thousands of investors, but I've yet to hear of one making profit on it. Here is the brochure.

The brochure says University Highlands is "strategically located for profit potential," that it is a "natural link between two expanding cities," and that it is "in the heart of the Cape Canaveral supply area."

There's a quotation from Andrew Carnegie to the effect that 90 percent of all millionaires made their money in real estate.

Senator WILLIAMS. What is the university close by?

Mr. PAULSON. Five miles away from University Highlands is Stetson University in De Land.

Senator WILLIAMS. And how high are the highlands at University Highlands?

Mr. PAULSON. Well, I think they are about 34 feet above sea level, but a lot of the land surrounding it is actually higher than the highlands.

Senator WILLIAMS. This is not swampland.

Mr. PAULSON. Yes, part of it is. And here are some pictures of the land and the captions say it is "beautiful and varied \* \* \*."

Well, it is varied all right. I have some pictures here that show some of the other variations.

Senator WILLIAMS. That shows the wooded part?

Mr. PAULSON. Yes, sir; and there is another one of the variations.

Senator WILLIAMS. It looks as though that is just like Ranchette.

Mr. PAULSON. Pretty much.

Now, here are some facts about University Highlands that aren't mentioned in the brochure:

1. Official maps indicate a large percentage of the property is swampland.

2. The U.S. Soil Conservation agent for Volusia County, Clarke Dolive, has described the area as 50-percent swamp woodland where the water is 1-foot deep or more in normal rain periods.

3. The water table is just inches below ground level in most parts of the property, according to the former county engineer for Volusia County, Wesley Sweat.

4. The property is described by the assistant county health officer, Charles F. Bradley, as "low-lying, marshy, and submarginal \* \* \* unfit for development for residential purposes until suitable and necessary drainage has been established and the water table lowered." Septic tanks aren't permitted on the land.

5. Firstamerica has been digging a drainage canal in one part of the property. However, State and Federal geologists have warned that if the area is ever drained, the natural underground sources of water for the entire county could be damaged or destroyed.

As a result of these warnings, the Volusia County Commission has authorized a \$150,000 survey to determine if drainage would in fact be harmful. If the experts find that it would be, then the county would have to condemn the land as a water resource, and pay the buyers its appraised value at that time.

6. On the current county tax roll, the property is assessed at \$17 an acre. It's being sold for \$695 plus 5 percent interest. First-america paid about \$170 an acre for it in 1962.

7. You may have noticed in the brochure that Interstate Highway 4 runs through part of the property. The contractor who built the roadbed for that highway ran into a muck pocket in University Highlands that was more than a mile long and from 20 to 25 feet deep.

The filling of that muck pocket delayed the highway for months.

I'd like to show you what University Highlands looks like on the map. This is a blowup of part of an official State road department map of Volusia County. You can see that University Highlands is about five times bigger than DeLand, the Volusia County seat, a town of about 12,000 population. Here, outlined in orange, is University Highlands.

Also, please note those little horizontal lines. They indicate swamps. Senator WILLIAMS. How many acres, again?

Mr. PAULSON. There are 12,000. Actually, this does not show all of their property. They have added about 4 square miles down on the south end of the county. It is larger than it appears here.

Here's a map of the whole county. This is Daytona Beach and this is Deland. This is University Highlands. I have outlined in green all but one of the investment acreage tracts in the county except one. Altogether they add up to nearly 40 square miles of territory.

So, you see how these things relate in size to some of the cities. I think, added together, they would be bigger than the city of Daytona Beach. I just add that to give you an idea of the extent to which "investment acreage" promotions are flourishing in just 1 county in Florida, and Florida has 67 counties.

Over here is another one of Firstamerica's investment acreage tracts, West Daytona Acres. This one is practically all swamp. And in this general area is another called New Smyrna Acres. They sold that one out in 87 days back in 1960 and made a net profit of \$415,367 on an investment of \$332,200. I don't have the boundaries of the tract but it takes in over 4,000 acres.

You know, you often hear the question asked, "Why do people buy land without seeing it? How can they be so foolish?"

Well, there are several reasons. One reason is, there is a lot of good land being sold through the mails by many reputable people. Another is that many people believe they are protected against fraud

and misrepresentation by Government regulations. In some cases they are impressed with glittering credentials presented by the sellers of the land. For example, in this University Highlands brochure there are the pictures of four of the principal officers of Firstamerica:

The president of the company is Frank Cannova, a former assistant attorney general of the State of Florida.

One of the vice presidents is Fuller Warren, a former Governor of Florida.

Another vice president is T. Frank Hobson, former chief justice of the Florida Supreme Court.

Senator WILLIAMS. That gives it all the dignity that it needs to prove its reliability.

Mr. PAULSON. I imagine it impresses a lot of prospects.

Senator WILLIAMS. I am sorry, gentlemen. We will have to break here for a period. I hope it will be brief.

(Short recess.)

Senator WILLIAMS. Let us now resume.

Mr. PAULSON. Before the recess, I was discussing some of the reasons why people buy land through the mails. I mentioned the credentials of one of the companies. I think this might be another factor. Down in this corner of the brochure is the seal of the Installment Land Sales & Development Association of Florida, Inc., and a caption which reads:

Firstamerica Development Corp. holds coveted charter membership in Installment Land Sales & Development Association of Florida, Inc. This association's primary aim is to protect the public from undesirable practices in land sales.

Here's a blowup of the association's seal. You'll notice it says: "Ethics; integrity; protection."

This association was formed last year, a few months after the installment land sales business got itself into a nationwide scandal. There was an investigating committee in Florida which looked into the Florida situation and recommended that the developers get together themselves and form a self-policing organization.

At that time, the new installment land sales board was formed also to regulate installment land sales.

Membership in the Installment Land Sales & Development Association entitles a company to display the seal in its advertising. To become a member a company must subscribe to a code of ethics pledging to "establish and maintain high standards of ethical conduct and methods of operations," and to make "full disclosure" to its customers of facts about the land they are selling.

Now here's a list of the organization's charter members. They were approved as of December 1, 1963.

The third from the top of the list is Dory Auerbach Associates, of Miami. Dory Auerbach is currently under indictment on 22 counts of mail fraud and 44 counts of violating the New York State mail-order land sales statute. The charges grew out of his sales of lots in an Arizona subdivision called Lake Mead Rancheros, a subdivision which has been the subject of nationwide notoriety.

INSTALLMENT LAND SALES & DEVELOPMENT  
ASSOCIATION OF FLORIDA, INC.

## EXECUTIVE OFFICES

2942 W. COLUMBUS DRIVE  
ROOM 3-4TAMPA, FLORIDA 33607  
PHONE: 878-3500

May 14, 1964

United States Senate  
Special Committee on Aging  
Washington, D. C.

Attention: Harrison A. Williams, Jr.,  
Chairman, Subcommittee on  
Frauds and Misrepresentations  
Affecting the Elderly

Gentlemen:

We wish to thank you for keeping our Association informed of the progress and program of your Subcommittee.

We have been advised that the State of Florida will be represented by members of the Florida Installment Land Sales Board, the State regulatory agency, thereby obviating the necessity of further representation.

Respectfully yours,

INSTALLMENT LAND SALES & DEVELOPMENT  
ASSOCIATION OF FLORIDA, INC.

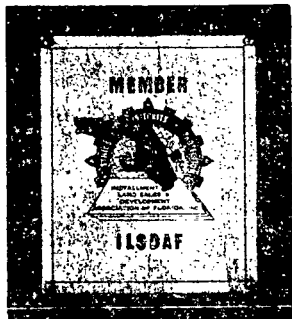
AM:tjl

By: 

Executive Director



# SEAL OF APPROVAL FOR FLORIDA LAND COMPANIES



Membership in ILSDAF, a self-policing organization entitles the member to display Association Seal.

*members accepted as of December 1, 1963*

All-State Development Corp.  
 American Realty & Petroleum Corp.  
 Dory Auerbach Associates  
 Avalon Beach, Inc.  
 Bahama Acres Ltd.  
 Belleview Estates  
 Belleview Heights, Inc.  
 Bloch Brothers Corporation  
 Canaveral International Corp.  
 Canaveral Investment Land Corp.  
 J. A. Cantor Associates, Inc.  
 Cape Canaveral Corporation  
 Carroll-Wiley, Inc.  
 Citrus County Land Bureau, Inc.  
 Collier Land Investment Corp.  
 Continental Homes & Development Co.  
 Diversified Land Investment, Inc.  
 East Lake Harris Estates, Inc.  
 Fidelity Land & Mortgage Company  
 Firstamerica Development Corp.  
 Florida-Collier Acreage Corp.  
 Florida Guaranty Land Company  
 Florida Ranchettes, Inc.  
 Florida Sunland Acres, Inc.  
 General Development Corporation  
 Gwarant Realty  
 Gulf American Land Corporation  
 Highlands County Land & Title Co.  
 Highlands County Title & Guaranty Land Co.  
 Indian Lake Estates, Inc.  
 Interlachen Development Corporation  
 Interlachen Lakes Estates, Inc.  
 Lake Estates of Inverness, Inc.  
 Lake Indrio Corporation  
 Lake Tropicana Ranchettes, Inc.  
 Lauderdale Development Corporation  
 Lee County Land & Title Company  
 Lester and McTague, Inc.  
 Little Torch Properties, Inc.  
 Magnuson Properties, Inc.

## CODE OF ETHICS

To establish and maintain high standards of ethical conduct and methods of operation.

To provide a forum for the exchange of information.

To encourage legislation for the betterment and protection of the industry and the general public.

To act as liaison between the members of the industry and the applicable governmental authorities in order to facilitate and encourage compliance with all pertinent laws and regulations.

## Full and Fair Disclosures

The members of the Association subscribe to the standards of ethics adopted as and for the ethics of the Association and pledge themselves to support and abide by the Laws of the State of Florida, the rules and regulations of the Installment Land Sales and Development Association of Florida and Laws of the Association.

Majestic Development Corporation  
 Miami Gulf Land Investors Inc.  
 Miami Investment Company  
 Mobile Land & Title Company  
 Moorings of Naples  
 Mr. Land, Inc.  
 Naples South, Inc.  
 Ocala Estates, Inc.  
 Ocala Hibiscus Park, Inc.  
 Ocala Ridge, Inc.  
 Orange Blossom Hills, Inc.  
 Panacea Development Corporation  
 J. Poster Pace Associates, Inc.  
 Peace River Shores, Inc.  
 Garland B. Potterfield  
 Punta Gorda Isles, Inc.  
 Rainbow Acres, Inc.  
 Rainbow Park, Inc.  
 River Road Acres  
 Rolling acres  
 Sam Sacks Associates, Inc.  
 San Carlos Land & Title Company  
 Schulco Realty & Investment Corp.  
 South Coast Construction Co., Inc.  
 Suncoast City, Inc.  
 Suwannee Florida Corporation  
 Suwannee River Homesites, Inc.  
 Three Rivers Estates, Inc.  
 Tropical Gulf Homesites, Inc.  
 Val Enterprises  
 W. H. Vernor, Inc.  
 Vero Lakes, Inc.  
 Webb Realty Corporation  
 Wheaton Industries, Inc.  
 Withlacoochee Cove Corporation  
 Associate Membership:

McCann-Marschall Co., Inc.

For your protection look for the ILSDAF Seal.

Mr. PAULSON. Further down the list is Firstamerica, the promoter of University Highlands, and several other similar investment acreage promotions. Since taking the pledge, Firstamerica has been cited with violating two provisions of the Business and Professions Code of the State of California.

It seems that the company has been soliciting and selling Florida land in California without bothering to notify the California Real Estate Commission and comply with California regulations, as is required by law.

As a result, Firstamerica has been barred from operating in California, until or unless they do comply.

In spite of all this, Firstamerica is entitled to display the association seal proclaiming: "Ethics; integrity; protection."

Senator WILLIAMS. We invited the association to be here, you know, and got a letter back saying that they thought their interests would be adequately represented by the Florida Installment Land Sales Board. (See p. 141.)

Mr. PAULSON. I will not comment on that.

Another member in good standing is Florida Ranchette, Inc., of Miami. I've already shown you that company's principal promotion—Florida Ranchette Acres.

Among others on the list of members of the association is the Cape Canaveral Corp. This company is selling land in a subdivision in Volusia County called Canaveral Lake Estates. Let's take a quick look at that.



Canaveral Lake Estates is about 13 miles from the east coast of Florida and 16 miles southwest of Daytona Beach. It is one of the remotest sections of the county. The nearest settlement is Osteen, a hamlet which is 11 miles away and has maybe 200 inhabitants.

To get into the subdivision from the east (you have to drive over about 23 miles of dirt road. To get there from Osteen, it's 7 miles of dirt road. Official maps and aerial photos show part of the property is swampy, some of it is high and dry, good land. The subdivision covers nearly 4 squares miles of raw land.

Canaveral Lake Estates is advertised nationwide, and unimproved, acre-and-a-quarter lots are being sold by mail, as speculative investments, for \$695 each, \$10 down and \$10 a month. The promoters paid as little as \$70 an acre for the land, and not far away is some high, dry, top-quality land which sold recently for an average of \$300 an acre.

I couldn't get any pictures inside Canaveral Lake Estates because the property is fenced and posted, and the gates are locked. But here's a picture of the entrance. Those trees are cypress, and cypress will grow only where the land is continually wet.

Now, here are just a few of the statements about the property contained in the advertising material:

This is a sound investment that should yield handsome profits in the years ahead \* \* \*. Canaveral Lake Estates is in the greatest boom area America has ever known. History is being written on the launching pads of Cape Canaveral—investors who buy land today should profit as growth continues to drive land prices upward. Canaveral Lake Estates is strategically located to benefit from this fantastic growth. Its location, close in to major cities and highways, indicates a rapid increase in the value of your investment.

What they don't tell you here is that between Canaveral Lake Estates and Cape Canaveral are several miles of solid swampland. You can see it here on the map.

Here are some more statements from the brochure:

Acreage near Cape Canaveral is today's most lucrative investment opportunity. Land is the one investment which is permanent, indestructible, and the basis of all wealth. As former President Grover Cleveland said: "No investment on earth is so safe, so sure, so certain to enrich its owner, as well-selected realty."

Cost estimates for the Project Apollo Moon Rocket now exceed \$30 billion—Cape Canaveral will be the focal point of these vast expenditures and this area will grow at an unbelievable rate.

Now is the time to buy land close to Cape Canaveral, America's spaceport, where the multibillion-dollar space rocket program means that the surrounding area's growth is virtually underwritten by the U.S. Government.

There is much more of this, but I believe this will give you an idea of the sales pitch. Here's another interesting statement, however:

\* \* \* Canaveral Lake Estates is not raw or inaccessible property. A system of graded roads makes every section \* \* \* readily accessible.

The average real estate buyer probably doesn't realize it, but a section takes in 1 square mile of land. So any given tract in Canaveral Lake Estates could be as much as a full mile away from the road.

The promoters also say the land has—

excellent natural drainage, being supplemented by a system of canals designed to assure that this property will be high and dry the year round.

Of course, there is no guarantee that the canals will do the job they are designed to do.

In the last year or so, some of the mail-order acreage companies have adopted a new sales gimmick. They will spend a few thousand dollars on so-called improvements to the land; access roads, drainage canals, or maybe a model home. Then they can tell their prospects that they are improving the property, and its value will skyrocket.

Of course, many legitimate and honest developers are making bona fide improvements to their property, and the property will gain in value as a result. It's up to the buyer to tell the good developers from the bad ones, and often that's difficult to do.

Now, if you'll bear with me for just 5 more minutes, I would like to discuss one other sales approach that certain land dealers are making more and more use of. That's the long-distance telephone.

Since the State of Florida began cracking down, and censoring out many of the wild claims made in printed brochures, many of the investment acreage companies have set up long-distance boiler rooms; that is, rooms full of telephone pitchmen.

The companies subscribe to Wide Area Telephone Service, or WATS service, and can make unlimited numbers of long-distance calls at flat monthly rates.

This is a very expensive way to sell, but it obviously pays off. It costs \$2,475 a month for one WATS telephone on which calls can be made to any place in the continental United States.

For proportionally less money, the companies can get phones covering limited sections of the country.

I can't tell you how many companies are using this service, but I was told by a telephone company official that there are at least six in the Miami area alone. Some of them have several phones.

This same official said their monthly phone bills would "knock your hat off."

We know that one company, Firstamerica, has used as many as six WATS phones at one time, four nationwide and two limited. That means they spent somewhere around \$14,000 a month for telephones alone.

Here's something else. A reproduction of a help-wanted ad which appeared a couple of months ago in the Miami Herald. It says telephone acreage salesmen make up to \$25,000 a year. (See p. 146.)

Hadley 758-7493.

**TELEPHONE  
EXECUTIVES  
LONG DISTANCE  
SALES**

**\$25,000 POTENTIAL  
PLUS  
ACTUAL PROOF**

G.A. L.C. PRODUCT plus reputation plus know-how plus Salesman with desire, drive, and initiative equals SUCCESS. Our professional training will assure this.

**TELEPHONE EXPERIENCE  
NOT NECESSARY**

IMMEDIATE openings for LICENCED men, full time and part time former insurance, securities, home improvements men, and all others in general selling field take note . . . Real estate brokers, give up overhead worries, see us . . . make money . . . many fringe benefits . . . Executive offices . . . the men we want are presently satisfied UNTIL THEY SEE THIS AD . . .

**POSITIONS LIMITED  
HURRY HURRY**

**CONFIDENTIAL INTERVIEW  
BY APPOINTMENT**

**GULF AMERICAN  
LAND CORP.**

**PL 8-0581 EXT. 63  
SUN. CALL 758-3691**

There is indeed profit potential in investment acreage—for the sellers, at least.

Now, let's take a look at how a long-distance land hawker works. Back in March of this year this advertisement appeared in the Army Times, and in a number of other publications. You'll notice it shows a picture of a Florida pine forest, with the words:

For sale, 5 acres, full price \$795, \$10 down, \$10 a month.

And underneath this is a coupon for obtaining "information and brochures without obligation" from the promoter, the Webb Realty Corp. of Miami.

Senator WILLIAMS. Did that fellow change his name to Webb or was it Webb from birth?

Mr. PAULSON. I could not tell you that. I just became familiar with the company when they started this promotion.

Senator WILLIAMS. His name does not hurt him.

Mr. PAULSON. No.

Senator WILLIAMS. Of course, it is not Del Webb, no relation.

Mr. PAULSON. That is right, no relation.

I filled out one of those coupons and sent it in, giving my home phone number. Three days later, around suppertime, the telephone rang. It was a salesman for Webb Realty. He said his name was John Margulies and that he had a wonderful deal for me.

Now, Margulies didn't call just once. He didn't call just twice, or three times. He called a total of six times. That's right, six. Each time he talked for at least 10 minutes. And did he put on the pressure. He used just about every pressure tactic in the book to get me to buy 2½ acres of raw land in Collier County, which is in south Florida, for \$795.

He said the land would "definitely increase in value." He said the whole area is booming. He implied that the area would soon be swarming with people looking for a place to live. My tract could be subdivided into four building lots, and if I "did nothing more than sell one and hold the rest," I would make money.

The second time he called he sounded very excited. "I have some very important news which just developed today," he said breathlessly. He told me that the electric power company would spend a quarter of a million dollars to extend powerlines part way up State Road S-40-A, which is about two-thirds of a mile west of the property he was trying to sell me. The demand for land in that area had become so intense that he couldn't hold a tract for me more than 24 hours. That was the absolute deadline. Prices would probably go up \$300 an acre in the next day or two, he said.

I didn't sign up for the tract, and I thought that was the last I'd be hearing from Margulies. I was wrong. He kept calling anyway. In fact, he didn't even mention the deadline again.

I later learned from the power company that it had been common knowledge for over a year that this utility work would be done, and that Webb Realty had known it and pushed it, so there was nothing new or dramatic about it.

The salesman made several other statements which turned out to be inaccurate or exaggerated. He said the State road department would spend a half million dollars paving State Road S-40-A. But

the department's district engineer, Clarence Davidson, said no such project was planned and no money has been budgeted.

The salesman said the land is high and dry. That may have been true, but the county agriculture agent for Collier County, Don Lander, said the section where it's located is subject to periodic flooding and that you can't build there without extensive drainage facilities. The area consists of "rockland and cypress swamps," he said.

The salesman said the land is "definitely a blue chip investment. It's got one hell of an investment potential. You can write your own ticket." But when I asked the distance to the nearest community, he changed the subject. I later learned from Don Lander that the nearest community is Copeland, which is 10 miles away and has about 100 residents.

From the Collier County clerk, Margaret T. Scott, I learned that the land being offered to me for \$318 an acre had been purchased by Webb Realty for \$100 an acre just 4 months before.

I got the distinct impression that Margulies, the salesman, does a lot of business with elderly people. At least two times he said: "I've always had respect for a few gray hairs."

Incidentally, Webb Realty is a member of the Installment Land Sales & Development Association of Florida, and is eligible to display the association seal which bears the words: "Ethics; integrity; protection."

Well, those are just a few examples of the many investment acreage promotions which are active in the Daytona Beach area, plus that one in Collier County. I'm sure there are many, many more like them. We may be just scratching the surface here today.

However, I do not want to create the impression that Florida real estate is all bad. This is definitely not the case, and I cannot emphasize the point too strongly. I believe that most Florida developers give you your money's worth, and a few are doing an outstanding job.

Companies like General Development Corp., the Mackle brothers, Del Webb and others are building attractive, well-planned communities which are an asset to Florida and a boon to the many retired people who are flocking there.

Unfortunately, developers like these are being hurt by the few con men in the business.

I think it's high time we got some good, tough, inflexible laws governing mail order real estate—laws that will put the swamp merchants out of business once and for all.

Senator WILLIAMS. Is there any way to estimate the dollar volume here of the swamp merchants? Is that what you call them?

Mr. PAULSON. I did not originate that term, no.

Senator WILLIAMS. Is there any way to estimate the dollar volume of what swamp sales amount to?

Mr. PAULSON. Well, it is very difficult, because this property is sold on contract. You do not get a deed to your land until you have paid off all the installments, and then the deed is recorded.

I might bring in this point, too, on these installments, in most of these contracts, if you miss one or two payments, you lose the land and the company is not obligated to notify you that you are behind in your

payments. So, the land reverts to the company and they are free to sell it to somebody else.

But as for the dollar amount, there have been various estimates of how much land is sold on installments.

Mr. Greenwood, I believe, has some figures on that. But how much swampland, that is pretty difficult to say.

Senator WILLIAMS. We have a \$700 million estimate for a year in the whole area of misrepresentation, swamp merchants, mesa salesmen and all the rest. That is excellent. I cannot say that we have had a more graphic picture.

Now we will hear from Mr. Greenwood.

Mr. GREENWOOD. Mr. Chairman, members of the committee, first, it is a pleasure for me to be here today. Perhaps some of our statements will help in some respects. A lot of the information that I have here has been gone over both by Mr. Paulson and by others, but I believe that it can stand repeating.

There is a great deal of misunderstanding and misinformation about Florida land investments that should be brought before the general public. The average person has limited knowledge of real estate but he hears from every direction that land is a good investment, that prices are skyrocketing, that the supply of land is diminishing.

All of these things are true, but it's equally true that a great deal of land is worthless as an investment, particularly for someone of such moderate means that he can only purchase on a \$10 down and \$10 per month basis.

This is certainly true of Florida, where a great majority of the land is undeveloped, swampy, or marshy. Certainly, prices are going up in many areas—near Cape Kennedy, around the larger cities and on the waterfront.

But these price increases are on good, usable land. They have no effect on swampland and very little effect on land prices in the interior areas. Land, to be worth anything, must have a use. It must be capable of being put to new and better uses such as homesites, commercial sites, pasture or groveland, et cetera.

Many people do not realize this, nor do they consider this when confronted by a high pressure salesman or a dazzling brochure promising future profit. It is this ignorance, or lack of sophistication in matters of real estate, which keeps the swamp merchants in business. And we do have swamp merchants in Florida.

Corporations have no consciences and, prior to the adoption of new laws in Florida, many, many thousands of acres of actual swampland had been sold as "homesites, investment acreage," et cetera. We are still confronted with many of these corporations which are still dealing in swamplands even though their advertising brochures are now being edited.

We in the real estate business in Florida are constantly cautioning people not to purchase this type of land sight unseen. At the time, as Mr. Paulson has said, we cannot always say a person is stupid or foolish to buy land sight unseen because a lot of land is purchased that way.

Further, people have come to rely on Government protection in the purchase of securities, foods, drugs and other commodities, and many



of them are under the impression that the laws against mail fraud or misrepresentation protect them in land purchases.

In Florida the sale of underwater "homesites" used to be a national joke. In recent years this sort of thing has been stamped out by new State and Federal laws. But the swamp merchants and unscrupulous operators have developed a new commodity which is a lot safer and, from all aspects, just as profitable. They are still selling many thousands of acres of swamps, lake bottoms, muck pockets, and impenetrable swamps and jungles. They do not now represent the land as homesites, but as "investment acreage."

They buy up the cheapest land that they can find, subdivide it into acre and a quarter parcels, prepare glittering, cleverly worded brochures, and launch a nationwide mail-order campaign. To say that their campaigns are successful is putting it mildly. Millions of dollars are wasted each year by purchasers of this type of land that will never be of any use to anyone except as game refuges or wasteland.

In the brochures and in high-pressure pitches by long distance telephone, they describe the property as having great "profit potential." They imply that the purchaser can make a substantial profit on a small investment, usually \$10 down and \$10 a month. The implication is that the land can be resold in the near future for much more than the purchaser paid for it. This, in most instances, is pure fabrication.

What the purchaser doesn't know, and is not told, is that without drainage, roads, and other improvements, the land is all but worthless and that once ownership has been scattered among thousands of persons all over the world, there is virtually no chance of any improvements ever being made.

How extensive is this operation or type of promotion? While it is difficult to say exactly, there is no doubt that it is being done on a large scale in Florida. In Volusia County alone, we know that there are at least five investment acreage promotions that are currently active. Together they add up to an estimated 38 square miles of land, an area almost as large as the entire city of Daytona Beach.

I would like to interject something here. I subscribe to a county service which provides me with a daily, what we call deed takeoffs. These are very thin slips of paper that give us information on every sale that is made in Volusia County. Several of the subdivisions that I know of have been sold out. Before I left today, I checked to find out how many pieces of property have been sold in this one particular area.

If you can imagine a pile that high, each of them tissue paper thin, it represents a tremendous amount of money.

Senator WILLIAMS. You had your hand up about 5 or 6 inches?

Mr. GREENWOOD. Yes.

Senator WILLIAMS. For what period of time was this?

Mr. GREENWOOD. I guess, over the past 4 or 5 years.

I understand this subdivision is all sold out. We get them every day. As the properties are paid for, a deed is issued. And the accumulation of these deeds over the past 4 or 5 years has been such that I was amazed when I actually looked at the pile of deed recordings that we have.

Senator WILLIAMS. How large an area is that?

Mr. GREENWOOD. About 4,500 acres. It is completely sold out.

Senator WILLIAMS. Is that swamp?

Mr. GREENWOOD. Some of it is and some of it is not. That will give you an idea of how expensive that is.

Senator WILLIAMS. Is that under development, that area?

Mr. GREENWOOD. No. Part of it was sold for homesites, investment acreage. It is a little better than the pictures that Mr. Paulson showed, but not very much.

They are usually able to get 512 acre-and-a-quarter tracts out of 1 square mile, so 38 square miles adds up to 19,456 lots or investment parcels. That is just in one county, and there are 67 counties in Florida.

In its monthly newsletter, the Installment Land Dealers Association of Florida, said that installment land sales involve, by the closest estimates, upward of \$500 million per year in sales and approximately \$15 million are being spent each year by the companies engaged in this business. Of course, these figures do not include the perfectly honest and legitimate dealers, of which there are many.

According to the State agency commissioned to regulate installment land sales, an estimated 40 companies are selling so-called investment acreage. Now, this is just in Florida. But this figure is probably very low, because only 197 of an estimated 600 to 800 firms that sell installment land have been registered with the new board, as they are required to do under an act of the 1963 legislature.

The Florida Development Commission estimates that 3,000 families a week move to Florida, so there's a tremendous market for the land sellers, legitimate and otherwise.

Back in 1962 when I was president of my local board of realtors, I was besieged with letters from people all over the country inquiring about one or another of these land promotion companies. Many had already purchased land, others were inquiring about certain companies, and still others were trying to unload land that they had purchased and found that it was not as they had anticipated.

In one instance a purchaser came down from Iowa to look at his land and called me up to help him locate it as he could not. It was in a wet, swampy area, a fact with which he was not acquainted. If it could have been found at all it would have had to have been by helicopter, as there were no roads or other means of access. Yet he had paid something over \$1,000 for the land. This is an instance which can be multiplied by the thousands.

How does an investment acreage promotion work? Well, a promoter buys a large tract of cheap land, often swampy. Usually he transfers the title to a related corporation to gain a tax advantage. Then he carves up the property into acre-and-a-quarter parcels, the smallest permitted under most plat laws.

Then they have beautiful, enticing brochures printed and start running advertisements in various newspapers, magazines, company organs, et cetera. U.S. servicemen, especially those overseas, have been a favorite target of the swamp merchants. The acre-and-a-quarter tracts are sold on installment contracts. No deed is recorded until the contract is paid off. Most contracts stipulate that the property reverts to the seller if the buyer misses one or two payments, and the seller is not required to notify the buyer that he is delinquent.

Many, but not all, contracts carry interest on the unpaid balance, usually 5 or 6 percent. Many of these lots are sold over and over again, year after year, as buyers stop their monthly payments for any number of reasons—they die, come upon hard times, come down and see the land, et cetera.

Few of the promoters make any improvements in the land although some will dig a small drainage ditch, give it a high sounding name such as the "Grand Canal," put in a road or two, bulldoze the swamps that can be seen from the main road, if indeed there is a main road. This is called "window dressing" and it enables the unscrupulous operator to tell his prospects that he is "improving" the property. Actually, if no real improvements are planned, he is required by the installment land sales board to say so in all of his advertising material, but it usually appears in the small print.

Usually, easements, not roads, are provided to each lot to give the owners legal access. Most lots are sold in metes and bounds, although some tracts are platted. It would cost most owners more to have their lot surveyed than they paid for it. In Miami a woman called a surveyor to find out how much it would cost to have her lot surveyed in Collier County. She dropped the phone when she heard the figure—\$20,000. In this case, a whole township would have had to be surveyed to determine the exact location of her lot. (See p. 231 for further information.)

No surveys are furnished buyers other than a rough draft of approximately where their property may be located in a given area.

Several years ago I spent almost 2 days, using a slow plane and a four-wheel-drive, radio-equipped jeep, to try to locate a certain parcel in a development called University Highlands, being sold by a corporation named Firstamerica Corp., located approximately 10 miles west of Daytona Beach in a dismal swamp.

After 2 days of some of the roughest riding, we had to give up, as it was impossible to penetrate deep enough into the swamp to a point which we had spotted from the air.

Incidentally, this parcel was sold to a woman from Syracuse, N.Y., who had intended to use it as a homesite for a trailer house. Needless to say, it could never have been used for this purpose.

As a real estate broker and appraiser conversant with land sales as they affect Florida, I strongly urge that at least some form of Federal regulation be brought to bear upon the unscrupulous operators now enjoying Federal immunity.

Before I close, I would like to read a letter from a purchaser of land from Firstamerica Corp. He came to me several years ago after he had initiated a sale and between Mr. Paulson and I we tried to get him straightened out.

Incidentally, this letter will serve to show the high pressure tactics that are being used by some of the developers and, secondly, how gullible some people can be. The letter is written to Mr. Paulson.

DEAR SIR: Received your letter today and would of liked to have seen you when I was there. I wrote a letter this morning to Mr. M. M. Smith of the Florida Real Estate Commission for his opinion on what that property in that territory is worth. How I come to buy the property is this way. Last summer, early, I received a letter from Prudential Research Corp., 415 Northwest First Avenue, Fort Lauderdale, Fla., offering to send me free booklet on 21 ways to make money on Florida land. I sent for the book. Soon afterward I received a call from a man connected with the First America Development Corp., 1939 Harrison Street, Hollywood, Fla. He told about GE building a big plant near

the property and also about the Government expanding Cape Canaveral tremendously and he looked for land to skyrocket in that territory for the reason so many people would be coming in there to work and they would need housing. I don't remember all he said, but he painted a pretty rosy picture of the property and so I bought 5 acres over the phone last July. About 2 weeks later he called again and asked me if I couldn't handle another 5 acres, so I bought another 5 acres. In January of this year I happened to be down in Hollywood so I stopped at their office and told them I would like to see the property before I went back home. They told me they would try to have a man up at the property sometime before I left for home to show me that, but before I left the office they talked me into taking another 5 acres right along the 10 acres I already had. All along from the way they talked I expected this land to be high and dry for they didn't say anything about it having to be drained. The day after I was over and looked at it and Mr. Greenwood advised me against making any more payments, I called up the office at Hollywood and told them I didn't like the looks of the property and I would like to have the money back that I had put in it. He told me over the phone if you want your money that's no problem and to come down to the office the next day. While I drove 300 miles down there the next day and when I got there they wouldn't give it back to me. While I was there I met a Mr. George Polera of the company and he claimed they were going to start soon to dig a 9-mile canal through the property and that would drain it out. They showed me letter from engineer telling how high it was above sea level, 38 feet, and the rock formation below. They also showed me a letter signed by the Governor of Florida in which he said he believed the territory around Daytona, De Land, and the cape to be the fastest developing area in Florida at the present time. The day before I went down to their office and after seeing Mr. Greenwood I called home and stopped payment on a \$100 check. Then when I was down at their office and they told me all that they were going to do right away which included cutting in 2,000 homesites right along Highway 92, I gave them another check to make good the one I had stopped. Well, when I got back to Homosassa where I was staying, different ones around there told me I had done a foolish thing so I came back home here and stopped payment on the last check so that is where the matter now stands. I have \$640 paid in. I hate to lose this as I don't get it very easy, but maybe it would be best to lose this than put a lot more in and maybe lose that too. I been paying it at rate of \$100 a month and that counts up pretty fast. Well I hope I've given you some information you can use.

This letter can be multiplied by hundreds and hundreds and we can get a fairly rough idea of just how much money is being spent for this installment land sales.

I thank you very kindly.

Senator WILLIAMS. Thank you very much, Mr. Greenwood.

Mr. Doyle.

Mr. DOYLE. Senator Williams, I would like to talk about the end product of this kind of a development.

Senator WILLIAMS. Excuse me one minute. Mr. Greenwood, are you a real estate broker?

Mr. GREENWOOD. A broker and an appraiser.

Senator WILLIAMS. In Daytona Beach?

Mr. GREENWOOD. Yes, sir.

Senator WILLIAMS. You deal, I assume, in developing property.

Mr. GREENWOOD. No, I do not myself. I do a lot of appraisal work and I am called upon many, many times to appraise property bought through these development corporations.

Senator WILLIAMS. You do not sell real estate?

Mr. GREENWOOD. No, I do not sell real estate.

Senator WILLIAMS. All right, Mr. Doyle, you may proceed.

Mr. DOYLE. As a city planner, the thing I am concerned about is the end product, what do we do with these areas after they have followed this process?

The East Central Florida Regional Planning Council is an organization that was formed in February of 1962 by the seven counties most directly impacted as a result of space-oriented activities at Cape Kennedy. One of the council's chief functions is to prepare a coordinated land use, transportation, and public facilities plan for a large and extremely diversified region experiencing one of the fastest growth rates in the United States.

In our current activity program, the council is engaged in a number of special studies designed to provide both information and guidance as to how various resources within the seven-county region can best be utilized. Available land and water supply areas are two of the most important resources being considered by the council as part of this effort.

We therefore welcome an opportunity to appear before this subcommittee to outline how certain types of mail order sales and subdivision practices often affect the productive utilization of land; create problems for property owners and public officials alike; and, in general, prove to be detrimental to everyone but the initial promoter.

My presentation today will essentially cover three aspects of this matter: Engineering and planning characteristics of most mail order type subdivisions; land use and land reuse difficulties created by such developments; and a series of recommendations concerning how this problem might better be handled at State and local, as well as Federal, levels of Government.

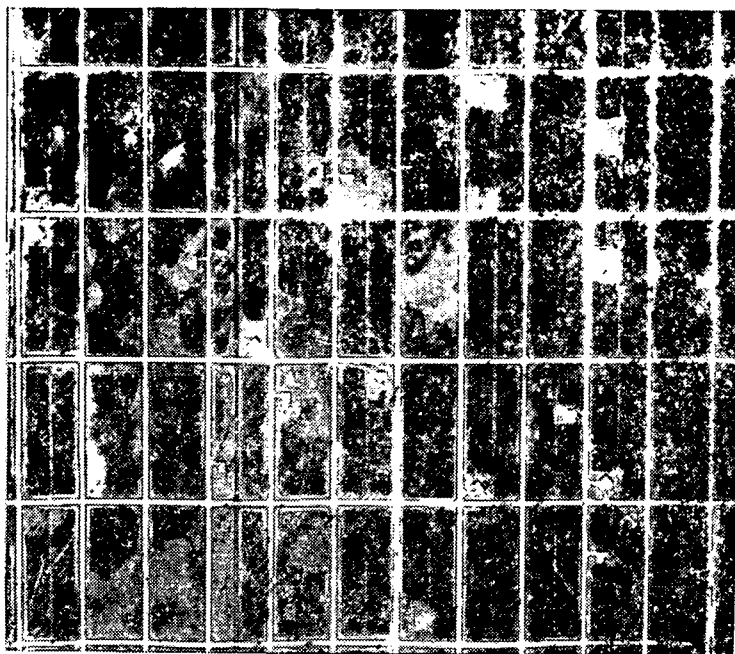
#### ENGINEERING AND PLANNING CHARACTERISTICS

In many instances, the so-called mail-order subdivision is laid out in what is known as the gridiron type of design, as opposed to the somewhat newer curvilinear format.

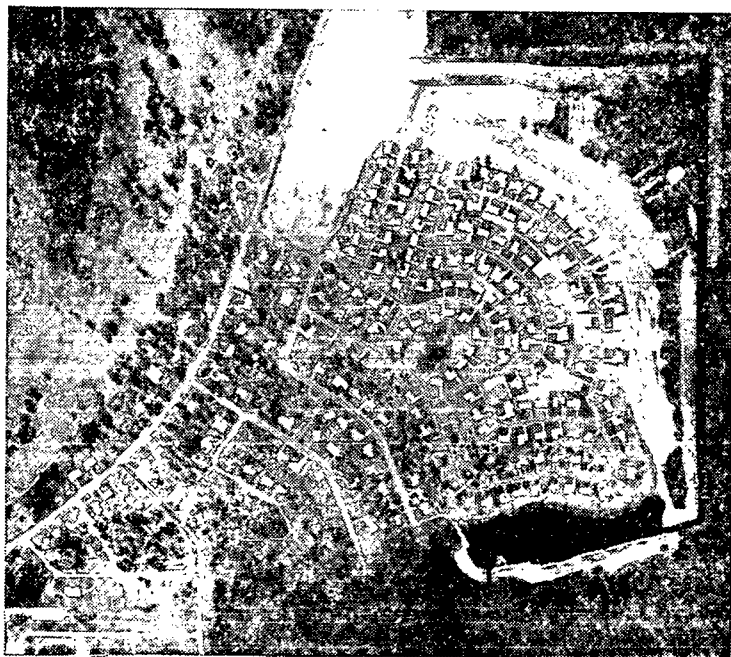
As you may know, the gridiron system, as its name implies, consists of a pattern in which lots and blocks are rectangular in shape due to the fact that all frontage streets are arranged in a stereotyped right-angled fashion.

Curvilinear design, on the other hand, is characterized by gently winding streets, cul de sac, dead-end type courts, and irregularly shaped lots and blocks, all of which result when a conscious effort is made to take advantage of existing land contours and other natural features such as lakes, streams, prevailing breezes, and desirable views or vistas.

(Example of above design follows:)



**GRIDIRON**



**CURVILINEAR**

Practically all of our established cities throughout the country conform to the gridiron pattern, especially in downtown areas and older sections. However, much of the better suburban residential development that has taken place since World War II has been of a curvilinear nature.

This trend is in recognition of the latter's superiority over the gridiron system with respect to such important factors as total improvement costs, variety of available homesites, and the enhancement of property values.

As you can see, in the gridiron arrangement, everything is laid out in right angles with no regard for topography, low areas, high areas, and so forth. This is a comparable area laid out in a curvilinear fashion which, I might add, most of our subdivisions since World War II have been laid out in to take advantage of topography, low areas, high areas, and so forth. This is important from the standpoint of how the land can be used or reused later. The standard type of mail-order subdivision is laid out in the gridiron fashion. I would assume that this simply is laid out in an office by someone who can draw a straight line with a ruler.

Senator WILLIAMS. On a gridiron, all they have to have is the four corners and they are off.

Mr. DOYLE. And the sales transaction is much simpler with that type of description. I think this is common knowledge that the gridiron subdivision is a very monotonous subdivision. It does not take into consideration where the sun is or the prevailing breezes, or low elevations, and so forth.

A developer using this kind of layout does not put in many improvements. This does not bother him. But it does bother later on the public officials who are called upon to make improvements, or a person who might redevelop the area.

In my opinion, the gridiron layout is used by a majority of mail-order subdividers because it is (1) cheaper to design and survey; (2) lot descriptions are simpler, and thus legal fees are lower; and (3) sales transactions are easier. In short, initial costs for a gridiron pattern of land subdivision are much less than comparable expenses involved in the curvilinear type of design.

Some other differences also need to be pointed up. Perhaps no type of design produces more monotony when fully developed than does the gridiron, with its rigidly uniform blocks and row upon row of houses sited on identical lots. This kind of arrangement seldom enhances or even protects existing property values.

Then too, a well-designed curvilinear layout can actually result in fewer lineal miles of street paving, curb and gutter work, sidewalks, utility lines, and drainage provisions than its gridiron counterpart. This is an important consideration with regard to the subject at hand, since many subdivisions of the type being investigated have none of these necessary improvements and thus must often be developed at public expense if a decent living environment is to be created.

As to what, if anything, the irresponsible mail-order developer does to "improve" the land for residential use, I'd like to describe one promotional effort that took place in our region a few years ago.

The original people are now bankrupt. The property was redistributed and a reputable developer has since tried to reassemble this

property and do something with it. This is what he found when he tried to do something with it.

In this case, no sewer or water provisions of any kind were ever installed to serve the property in question; nor were any areas set aside for school, recreation, or other public purposes. Although drainage of a sort was attempted, it was largely ineffective, according to the developing group, because it was laid out in the gridiron pattern.

Other than the entrance proper, what passed for roads were "constructed" as follows: First, a narrow right-of-way was bulldozed through the palmetto underbrush in the prescribed gridiron fashion.

Next, small ditches were dug on either side of these "pathways" such that continuous, parallel furrows of earth were created. These furrows were then flattened to give the appearance of freshly graded streets—especially if photographed or reviewed from the air.

The promoters of this "development" eventually went bankrupt, but not before scores of lots were sold sight unseen through mail and television advertising methods to persons of modest means who were located, for the most part, in certain Midwestern States. I am happy to say that the county wherein this operation took place has since instituted controls which should prevent a recurrence in future years.

To summarize from an engineering and planning standpoint, the typical mail-order subdivision is all too often (1) laid out in a gridiron pattern; (2) characterized by little or no improvements to the land; and (3) incapable of being economically developed to accommodate single-family housing in a suitable living environment.

Now as to land use or reuse problems, as mentioned previously, mail-order subdivisions of the "fast buck" variety usually produce land utilization problems for almost everyone associated with such projects other than the initial promoters. Headaches are created not only for the individual purchasers of property, but also for local, State, and Federal officials.

The land or lands involved may be unsuitable for building due to swampy conditions, inaccessibility, or a number of other factors. Thus, when the owner of a lot eventually decides to build, he may find that either the board of health will not permit the installation of a needed septic tank or well; or that mortgage moneys are unavailable due to the poor risks involved insofar as property values are concerned; or that he has no way to even get to his property from a public thoroughfare.

Of course, since such subdivisions are comprised of many small scattered ownerships after the promotional hoopla is over and done with, the problem of seeking relief for the conditions I have described becomes almost insurmountable for the person who wishes to use his or her property as a homesite.

If enough people are in the same boat, then the local county commission or other governing body is besieged with requests for the installation of roads, utilities, et cetera. As is often the case, there are no available funds to provide the necessary improvements, and thus individual building efforts are stymied and the land lies dormant.

Occasionally a reputable developer attempts to reassemble all the property for a worthwhile purpose. Due to the multiple, scattered-ownership pattern, such as reassembly is difficult at best—and often impossible. Not only are individual owners sometimes hard to find, but many have believed the original promoter's propaganda that land



values would naturally continue to climb and that speculative profits would definitely be realized.

A situation therefore can develop which precludes use of the land by the small parcel owners; prohibits reassembly for either a private or public purpose; and, indeed, makes it impractical even for agricultural pursuits. In such instances, a "legal wasteland" is the final end product of the mail-order subdivider's efforts. This type of "no man's land" tends to depress adjacent and nearby property values; seriously affects the local tax base, and even mars the countryside if bulldozers have been permitted to push down all the trees and natural vegetation during the course of the promotion.

As you can imagine, our planning council would certainly like to avoid this type of problem in east-central Florida. Trying to cope with rapid and diverse growth conditions is bad enough, without having to also deal with areas which have been effectively taken out of use for any purpose whatsoever.

For one reason or another, we tend to pay little attention to the manner in which land is subdivided in certain key parts of our country. Once a plat is recorded and property is transferred according to a given layout—whether such a layout is good or bad—the die is cast insofar as the quality of future development is concerned.

If it is a well-planned subdivision, a good living environment can be created; maintenance costs over the long haul can be reduced; and thousands of tax dollars can often be saved as a result. On the other hand, if the land is promiscuously or indiscriminately divided, with little thought other than to dispose of it as soon as possible, then many, many problems are likely to be generated.

I personally think that public officials at all levels of government must devote a much greater proportion of their time to this important matter of how, where, and when land is to be subdivided or one of our prime natural resources will be dissipated at an even faster rate than it has in the past.

In conclusion, I have a number of suggestions that I wish to submit for consideration by the subcommittee.

First, at the Federal level, there should be specific regulations so designed and enforced as to prohibit fraudulent or misleading advertising in connection with mail-order-type subdivisions. Also, ways and means should be devised to provide technical guidance in the form of trained personnel, appropriate publications, special TV programs and the like. Such guidance should point up the problems mail-order developments may bring to the public, to prospective purchasers, and to responsible officials, real estate groups, and others interested in good land development.

Secondly, each State should make certain that appropriate enabling legislation is enacted to permit cities and counties to properly regulate the subdivision of land within their respective jurisdictions. There also seems to be a State responsibility insofar as protecting the property rights of prospective new residents is concerned. This responsibility might best be met by joining with the Federal Government in a strong effort to eliminate detrimental mail-order land promotions.

Finally, at the local level, every city or county should (1), adopt strong subdivision regulations; (2) insist on reasonable land improve-

ments; (3) undertake general planning such that all developers will have basic guidelines to follow; (4) separately inspect each lot of 5 acres or less which is put up for sale in order to insure compliance with pertinent regulations, as well as to determine the worthiness of individual building sites.

In Florida, each county has had to get special legislation to undertake the planning control. We feel that this seems to be a State responsibility. I believe our Governor has expressed this particular idea as well.

(5) Provide capable people to oversee and work with land developers; (6) insist that all lots have a certain amount of frontage on publicly dedicated streets as a prerequisite to the issuance of building permits. This has been done successfully in other areas, and (7), consider changes in tax assessment methods so that large landholding practices might be curtailed in rapid or speculative growth areas, inasmuch as such practices tend to stimulate activity in areas which are basically unsuitable for building purposes. These marginal areas are where we so often find the mail-order subdivider at work due to low initial land costs.

While many of these recommendations have been oriented to the local governmental level, I feel that the Federal Government does have a real and positive role to play in this matter; and I hope that the subcommittee can help to resolve a serious and growing problem.

In closing, I would like to once again express my appreciation to Chairman Williams, Mr. Oriol, and members of the subcommittee for inviting me to testify today.

Senator WILLIAMS. Well, that, again, is a very helpful statement, Mr. Doyle. We appreciate your observations here on the role of the Federal Government and if at any time in the future you have some more ideas, we would certainly like you to communicate them to us. We are now working with some ideas. Of course, this subcommittee can only propose legislation. We cannot deal with legislation, as we are not a substantive committee.

But, obviously, there has been all the evidence we need, yesterday and today, that there is a proper role for national authority of the Federal Government. I would like to keep you here and discuss with you some of the avenues you have opened up, but I know we are going to go into session at noon and I do want to have Mr. McWhirter and Mr. Criser come on up now. So thank you very much. The committee could not be more grateful than we are.

**STATEMENTS OF JOHN W. McWHIRTER, JR., EXECUTIVE DIRECTOR, FLORIDA INSTALLMENT LAND SALES BOARD, TAMPA; AND MARSHALL M. CRISER, BOARD CHAIRMAN, FLORIDA INSTALLMENT LAND SALES BOARD, WEST PALM BEACH, FLA.**

Senator WILLIAMS. We welcome you to the hearing. You are both from the Florida Installment Land Sales Board?

Mr. CRISER. I am Marshall M. Criser, chairman of the Florida Installment Land Sales Board. Because of the remarks that were made earlier, this morning, I think it might make a point of clarification. I represent the regulatory agency of the State of Florida. I do not represent, directly or indirectly, the Association of Land Developers.

Senator WILLIAMS. I know that. They know that and you know that. Everybody knows that. But their letter is a little misleading, I thought.

Mr. CRISER. I was a member of the Governor's committee which made recommendations to the legislature that resulted in the Florida Installment Land Sales Act. Among our recommendations was one that a self-regulating, policing, voluntary association be made up. The achievement that they have made in that respect at this time is not for me to pass upon. As I say, I represent the State regulating board and am not a developer.

Although I am a lawyer, I do not represent any developers in the installment land sales business.

I welcome the opportunity to appear today, accompanied by the able executive director of the Florida Installment Land Sales Board. You inquire as to an industry that we, in Florida, consider to be vital to our economy.

We feel that Florida has now created a State regulatory agency equipped to do a proper job of supervising the installment land sales business, both intrastate and where Florida is the situs State where sales are made by means of mail-order or other means of communicating with nonresident investors.

We have created no panacea. We still have complex problems of magnitude with which to deal and I am sure that when my successor makes a similar statement 5 or 10 years from now, he will make these same admissions.

The reason for this is that we are dealing with an ambitious, adolescent but vibrant industry; one in which well-financed, well-managed developers participate and one in which, on occasions, underfinanced, poorly managed speculators become involved.

Paramount protection must be afforded the purchaser who invests his money in real estate relying on the contractual obligation and promises of the developer. Whether he buys on the site or as a mail-order customer, he is entitled to know all pertinent facts pertaining to his purchase. As long as the investor is given these pertinent facts in an understandable and honest presentation, he still must exercise his own prudent judgment as to whether or not he is making a proper investment.

It should not be the role of any governmental agency, whether State or Federal, to become an assurance agency to help those persons who can reasonably help themselves and refuse to do so. Regulatory agencies cannot properly replace investment or legal counsel to be provided free of charge by government.

This, of course, is not to say that the \$10 down, \$10 a month investor should have to hire a lawyer or secure the services of a registered real estate broker in order to make his purchase. If the law requires the developer to make a full and fair disclosure of his property with proper presentation of both the negative as well as the positive factors, such action would not be necessary.

While primary consideration must be given to the purchaser, to regulate without purpose or direction, or to administer arbitrarily would be a useless waste of time and money. To establish, by law or implementing regulation, standards which only the most affluent real estate developers can achieve, may give protection to the public, but at the same time, will see to the early demise of the industry.

To set up minimums which will allow fiscally unsound operators to make a fast profit and leave the field without producing what they have promised affords the public no protection whatsoever. Guidelines must be defined which will allow the developer to operate in a healthy, economic community while requiring him to present to his buying public a full and fair disclosure of the product which he seeks to market.

It is the purpose of the Florida Installment Land Sales Act created by the 1963 legislature to see that this balance is achieved. The act is the work product of a study committee representing government, business, and the public of our State that toured the State in the winter and spring of 1963, studying the problem before making its report to the legislature.

The executive director of the board, Mr. McWhirter, in his remarks will more specifically deal with the type of problems with which the executive offices deal on a day-to-day basis. The board, as constituted, represents industry and nonindustry members. The board has sought to implement the legislative authority by adopting rules and regulations designed to provide the buying public with a full and fair disclosure of essential factors characterizing the real estate offered.

Alleged violations have been investigated with dispatch and in most cases, remedial action has been taken. Certainly there exists in our State instances of violation of the law. Hearings are conducted and it will be the purpose of the board to see that, to the greatest extent possible, persons who will not deal lawfully and fairly with purchasers will be excluded from doing business in our State.

In the invitation to testify extended by the chairman, he asked for an evaluation of Federal actions taken in this field to the present time. I am generally aware of the fact that Federal Post Office officials and Federal Trade Commission officials have increased their activities where individual complaints have come to their attention and violation of Federal laws are involved. I have no personal knowledge of any of these investigations.

My personal opinion is strongly committed to the proposition that these problems can best be dealt with through State regulatory agencies rather than Federal regulatory agencies. Each of the respective States, whether they be situs States or investor States, can adopt appropriate regulatory vehicles. In addition, they must work out reciprocal enforcement procedures among the various States. I well realize that the Federal Government will tend to regulate where the State has failed to assume its responsibility. We think we have not failed that responsibility in Florida. At any rate, we feel that we should be given an opportunity to prove that the Florida Installment Land Sales Board can do the job that it was created to do.

Public awareness of certain of the problems has already, to an extent, put the buying public on notice and on guard. Unfortunately, however, the able and reputable developer is being damaged by the unethical, or poorly managed developer, and in many instances, the emphasis in reporting the so-called state of the industry has been put on the negative factors without making it clear that in Florida, at least, in this industry there are a great majority of ethical developers who have made it possible for hundreds of thousands of people to buy

and invest in real estate on an installment basis and to move their residence to this real estate in their later years.

By the same token, the States which have acted responsibly in an attempt to protect all persons concerned have been tarred by the same brush as those States which have not responded to this time.

Florida knows well the results of "land boom" and "land bust." The scars and memories remain and for that reason, Florida has moved forward in order to assume responsible control and supervision. We want our faults to be made public just as well as we want our virtues to be made public.

We stand ready to cooperate with this distinguished committee or any other agency of Government, business, or the general public in seeing that responsible regulation and administration is provided. Someday, we trust that this will be a self-regulating industry. Until that time is reached, we will attempt to do our job as best we are able.

Senator WILLIAMS. You have yet to render your opinion and suggestions, have you not, for tighter regulation of this area?

Mr. CRISER. For Federal regulations?

Senator WILLIAMS. No, for your own State. You say, as I get it, these subdivisions being sold off today, the ones that are being described, would indicate that the swamp merchants are at work today?

Mr. CRISER. Yes, sir; there are people represented here today who described some of these developments.

Senator WILLIAMS. I am saying that your board has not concluded its job, I take it, of getting the State government to give you, the regulatory body, all you need to stop the gypers?

Mr. CRISER. The board came into being in September of 1963. Since that time, the board has implemented the legislative authority by regulation. The board has been at work since September 1963 stopping these incidents where they have been reported to us. Cease-and-desist orders have been issued, hearings are being conducted. We cannot solve a problem of some 10 years making in 6 months.

Senator WILLIAMS. That was my question. You have a lot of work ahead of you to improve your potential for dealing with the swamp merchants.

Mr. CRISER. Yes, sir. We feel that we have sufficient legislative authority to do a job. It is going to take a while to do a job. It is going to take cooperation with many agencies to do the job. We think the vehicle is there. It is a matter of implementing the job and seeing that it is done.

Senator WILLIAMS. That description of the vast acreage that was subdivided on a plat or map and the woman who got an estimate of \$20,000 for a survey bill for finding the property—are you folks dealing with that situation?

Mr. CRISER. Yes, sir. We are dealing with all situations such as that. It has been a problem and instances such as this, alleged to be true, do exist. And where they do exist certainly they should be stopped and stopped immediately.

In dealing with real estate in a deed and mortgage type of transaction in Florida, that seems to be an unreasonable possibility that it could cost that much to survey. These things have to be dealt with and operators that deal this way should be put out of business and are being put out of business.

Senator WILLIAMS. You can do a lot at the State level; but it also requires, I would assume, some assistance at the National level.

For example, these long-distance telephone sales, the mail-order sales, the newspaper ads that are misrepresenting the property—all of these exist in interstate commerce, and you really need reciprocity among the States, and probably some further teeth in the national laws that obtain here.

Mr. CRISER. That is right, sir.

Senator WILLIAMS. That is fine. We appreciate that.

Your executive director, Mr. McWhirter, has a statement.

Mr. McWHIRTER. Senator, in light of the press of time, I notice that many issues have been raised about Florida property. I would like to submit my written statement to you and I would like to briefly summarize it, if I may, and then allow you to ask any questions you might like. Then I would like to tell you a story which came to our attention which I think vividly describes the need for State regulation rather than regulation at the Federal level.

Senator WILLIAMS. Or in addition to.

Mr. McWHIRTER. I think we have Federal legislation now and I think that can be probably modified to be more effective. But I do not believe that extended Federal legislation under the aegis of the Securities and Exchange Commission, or extended legislation under the aegis of the Federal Trade Commission will necessarily solve the problem, and I would like to point out why not.

Briefly the Florida legislation is designed with three things in mind. First of all, we license every subdivider and salesman in the installment sales business in Florida. Before they are licensed, their moral, ethical, and financial qualifications are examined. At any time in the future, after a license has been given, the license is subject to revocation, if it should appear that they have been guilty of fraudulent or misleading conduct.

In addition to the licensing facet, we also examine every piece of advertising that is sent out of the State of Florida advertising property for sale by means of installment contract. This is not only with the idea in mind of preventing fraud or deception, but we try to engender the concept of full disclosure.

The item you referred to a moment ago in which the lady had to pay \$20,000 as a survey fee, we feel she did not have full disclosure. If an ad goes out of the State from a Florida subdivider that is not approved by the board, the State has authority to take away his license to sell by means of installment contract.

We are also backed up with the authority to seek a court injunction to stop him from further proceedings. We have authority to appoint a court receivership in the event that a subdivider's financial situation or circumstances were such that it would be necessary for a receiver to come in and protect the purchasers.

In addition, there is a criminal penalty in Florida providing a fine up to \$100,000 plus imprisonment up to 5 years for any person publishing false or misleading information for the purpose of inducing any other person to purchase Florida real estate and this is a very stiff penalty.

Senator WILLIAMS. Would you like to have your full statement placed in the record?

Mr. McWHIRTER. Yes, sir. I would like to submit that into the record.

Since our birth in September, as Mr. Criser told you, we have tried to seek cooperation with other States. I briefly looked through our records the other day, and we have corresponded with and received information from Arizona, California, Iowa, Kansas, Minnesota, Michigan, Ohio, New Jersey, New York, Puerto Rico, England, Norway, Sweden, Austria, Switzerland, and Germany.

We have been investigating items, and I think we have gone a long way toward solving problems in many areas. I have talked with Mr. Peacock of your home State, New Jersey, and we are cooperating on a case up there.

Senator WILLIAMS. You were here this morning when prior witnesses talked about Florida Ranchette, the Cape Canaveral development, and Firstamerica. Are these licensed developers under your program?

Mr. McWHIRTER. First America and Florida Ranchette have been given emergency operating authority by our board. It is a long and arduous problem to investigate thoroughly the principals in the corporation, to examine their background, and to find out the financial and moral circumstances about their operation.

They have not been given permanent certificates by our board, but they are still in the application stage. They do have authority to sell. If you like, I will direct my statement toward these specific complaints.

Mr. Paulson brought out some of these complaints and I would like, at this juncture, to compliment Mr. Paulson, who has been one of our finest unofficial investigators. He has pointed out several areas to us and I think we have taken prompt action.

In one, the date we found out about an incident at Florida Ranchettes we sent out a cease-and-desist order to that company.

Mr. Paulson also referred to a letter sent by a gentleman from California. This represents a peculiar problem because I am unable to determine whether or not the man in California solicited the information about homesites or whether he was approached by the company.

We explored the possibility of getting this man to come to Florida and testify. Unfortunately, he is unable to come. We feel that fair jurisprudence entitles both sides of the case to be presented. However, this letter did go out. The subdivision, apparently, is being sold as a homesite subdivision. They have no authority from our board to offer this as a homesite subdivision, because they have not given us adequate proof that the land is acceptable for sewage disposal or that there is potable water available. Nor have they given us proof that the county will maintain the roads. Until they have this proof, we will not allow them to issue any advertising material which will enable them to lead people to believe it is a homesite subdivision and that they can go in there and build a home.

In response to your letter of last week, Senator, at the present time, there are 231 subdividers. Of this amount, 219 are operating from Florida outside of the State and 12 are operating from outside of the State into Florida.

Since September we have tried to establish fair standards of advertising. We adopted the standards of the better business bureau, to a great degree, and we are hopeful that the entire United States will have standardization in advertising. To my way of thinking, it's a little difficult for a subdivider to have one piece of advertising approved in Florida which he will have to change before he sells in New York, and then he will have to change it again before he goes to California, and he will have to change it further before he goes to Arizona. It is difficult and it causes him to increase the cost of his property.

I think in this area, for the protection of the subdivider himself, Federal legislation would probably be of greater service, because it would enable the people to go to a central agency and get the approval of the Federal Government and not have to go into the separate States. However, I do not believe the Federal Government can effectively handle the problem of regulation of subdivisions themselves.

Florida is a situs State, and we realize that things have gone on in Florida that are not proper or just. But we recognize our responsibility and I guarantee you that we are going to make every effort to ferret out these unscrupulous operators.

I believe the State is the place to handle that. You have the problem of county regulation in subdivision plotting. You have the problem of health department approval of the water and the sewerage disposal system, and you have many subdivision functions that are really functions that are concerns only at the local level.

Senator WILLIAMS. I think you can skip that portion of your statement. I will agree with you.

Mr. McWHIRTER. There is one significant thing that has not been brought out and I think it is important. We feel very strongly about this. I have heard time and time again, and I have seen it written in the newspapers and magazines that you ought to see the property you buy.

It has been our experience that people who see the property they buy are the ones that are defrauded the greatest. They are subjected to the hard sell. They are subjected to a salesman in a closed room where there is no regulation of what the salesman has to say, other than by a complaint made against him later.

Quite frequently after an hour and a half or so of intense interrogation by the salesman, the person just gives in and buys the property and they believe they are buying something they are not.

The Federal Government cannot operate in this field, because there is no interstate character to the transaction. There is no contact with the Federal Government, because it is a sale that is transacted completely at the situs.

Florida has 12 million tourists each year that come into our State. A great number of them are subjected to sales promotions. There is no way, in my way of thinking, that Federal regulation could protect these tourists.

Senator WILLIAMS. With your board, is it still possible for developers to use that gimmick of running a phony contest and telling someone that they won a lot and would have so much for closing charges?

Mr. McWHIRTER. No, sir; that type of operation would be illegitimate. The man paying \$120 in costs is not getting a free lot. Mr.



Oriol showed me a letter he had received about an operation known as Lake Geneva Estates, I believe. At any rate, it was operated by a man by the name of Robert Craft, apparently of De Funiak Springs, Fla. The subdivision itself is in Alabama and apparently sales were made at the Allentown, Pa., Fair. Now, this operation definitely has interstate character and it is an operation which, I think, the Federal Government should look into and, in fact, has looked into.

When I learned of it in January, I contacted the district postal inspector in Atlanta. He informed me that the Federal Government had taken action against this subdivider. They indicted Mr. Craft on several counts of mail fraud. This indictment was filed in January of 1964 and is presently pending.

Since that time, we got two letters about the subdivision and we turned them over to Mr. Clinton Ashmore, the district attorney, where this case is being prosecuted.

(Text continues on p. 169.)

PREPARED STATEMENT BY JOHN W. MCWHIRTER, JR., EXECUTIVE DIRECTOR, FLORIDA  
INSTALLMENT LAND SALES BOARD

Mr. Chairman, distinguished Senators, I appreciate the opportunity to appear before you today to discuss Florida's experiences in the land development industry and the steps that have been taken by our State to reasonably assure fair dealing for purchasers of real estate.

Exhaustive testimony was given to your committee last year about burgeoning land scandals in the great Southwest and Florida. Almost every major publication in the country has carried one or more articles about land frauds and the prospective crash of the land boom. Through your study, I am sure you are thoroughly familiar with the general nature of the problem. Consequently, I will restrict my remarks to Florida's regulatory legislation.

Florida has not been unaware of misrepresentation in land sales. In fact, it has tracked the industry closely since its rebirth on a large scale in our State in 1955. In an emergency session of the Florida Legislature in 1956, a law was passed which had stiff criminal penalties providing a fine up to \$100,000 plus imprisonment up to 5 years for any person publishing false or misleading information for the purpose of inducing any other person to purchase Florida real estate. This law is still on the books and provides an effective deterrent.

We found, however, that the criminal penalty alone was not sufficient to prevent injury. A land promoter could distribute a half-million misleading brochures and the land could be sold before a prosecuting attorney would even know of the offense. Even when fraud could be proved, it didn't provide an adequate remedy for purchasers. In an effort to overcome this deficiency, the interstate advertising law, passed in 1959, was designed not only to continue the criminal penalties, but also to exercise some control over advertising before it was distributed to nip an incipient fraud in the bud.

The first law was a stopgap measure, but it evolved as the industry grew. This evolution, along with able administration by the Florida Real Estate Commission, helped to close many loopholes and to avert some potential deception, but unfortunately not all.

In January of 1963, Arizona Real Estate Commissioner Fred J. Talley appeared before this committee. At that time, he aptly and succinctly stated a well-conceived legislative philosophy for the regulation of this industry when he said: "No door to any sale should be locked, but the threshold should be so well lighted that the purchaser is certain of where he is going."

The new Florida installment land sales law embodies Mr. Talley's philosophy. Before its passage in 1963, it received intensive study by knowledgeable men. In their opinion, it is a good vehicle by which the government of a situs State can achieve three basic and important purposes:

First, to give every purchaser full and fair disclosure in advertising, free from deception.

Second, to see that there are reasonable assurances to purchasers that they will receive marketable title to the land they buy and that the improvements which have been promised will be completed.

Finally, the law hopes to foster a healthy, economic climate in which a legitimate land developer can sell his property to a willing buyer with the least possible governmental interference.

The law achieves these objectives by registering and licensing all landowners and salesmen who sell land in subdivisions of more than 50 lots by means of installment contracts. The Florida Installment Land Sales Board examines the moral and financial qualifications of subdividers before they are allowed to sell. The board approves every piece of advertising prior to its publication to see that it is truthful and that it gives full and fair disclosure.

The law gives the board authority to administratively suspend and revoke licenses of persons who have been guilty of deception and authority to seek court injunctions against subdividers and receiverships where the circumstances warrant.

The Florida law is somewhat unique because Florida is a situs State. Most of the other 25 States which have legislation in this area are investor States. Investor States are unable to effectively regulate out-of-State subdividers because they lack direct control over the seller or the property being sold. Situs States, on the other hand, generally have jurisdiction over both the property and its seller, thus they are in a position to effectively enforce standards of advertising and conduct established by law.

Florida is in a position to cooperate with officials in investor States to see that our developers comply with all laws. Since this board came into being in September of 1963, we have cooperated with other States and countries in exchanging information about subdividers in investigating complaints emanating from Arizona, California, Iowa, Kansas, Minnesota, Michigan, Ohio, New Jersey, New York, Puerto Rico, England, Norway, Sweden, Austria, Switzerland, and Germany.

Legislation in situs States should be more extensive than in investor States because of more varied problems necessitating broader enforcement powers. Even so, for fair and effective regulation we need similar standards throughout the country. The National Better Business Bureau has taken up the cudgel in this regard and has adopted a comprehensive set of standards. These standards are receiving wide circulation and are known to most State legislatures and regulatory boards involved with the land development industry. Likewise, the National Association of License Law Officials has adopted a model law that would be functional for most investor States and has become a quasi-clearing-house for information about the installment land sales business. We are increasingly obtaining better coordination in an effort to establish a free flow of information about subdividers and subdivisions. All of this is taking place without the assistance of Federal legislation.

In the 8 months our board has been in operation, it has reviewed 2,330 pieces of advertising; 219 Florida subdividers have registered with the board, and 12 subdividers from other States doing business in Florida have also registered. We have begun 86 separate administrative proceedings for violations of the law.

A breakdown of the type of land business coming under Florida's jurisdiction is important and interesting because each type requires somewhat different handling and observation. Approximately 55 percent of all subdividers who applied to register with the board are selling homesites. Our records reflect that approximately 470,000 acres of land are being offered for sale from Florida in this manner, with prices running from \$995 to \$11,000 a lot. The average minimum sales price is \$1,295. Normally, the land is raw acreage, when sold, and the subdivider promises to complete improvements to make it livable before the purchaser completes his payments.

The second broad category of registrants are those subdividers who sell acreage tracts; these constitute approximately 36 percent of the subdividers falling under the board's aegis. They are offering approximately 300,000 acres for sale, the average prices run from \$595 to \$1,890 per tract; the minimum-size tracts are from  $1\frac{1}{4}$  to 5 acres. The typical size is  $2\frac{1}{2}$  acres for a price of \$595. Generally, there are no improvements on this land, and none are promised. Sometimes it is inaccessible.

The third broad category into which we group our registrants is campsites or mobile trailer site subdividers. They constitute approximately 9 percent. There are approximately 74,000 acres being offered for sale in this manner and the price range on these lots runs anywhere from \$385 to \$2,495 a lot, with the average sales price approximating \$677. This land is usually improved.

We estimate that presently there are about 850,000 acres of Florida land being offered for sale in other States. We have not attempted to discover the exact

number of transactions taking place, but our estimate of the annual revenue from sales is \$150 million. It's a big business, but I believe the "blush is now off the rose." Of approximately 645 subdividers who were in the business between 1955 and 1964, almost half have retired from interstate land sales, primarily because the cost of doing business and land acquisition has increased substantially and the thorough nationwide publicity of this industry has awakened the public to its many pitfalls. This has increased sales resistance and cut profits.

I would say that the subdividers now registered with our board constitute approximately 80 percent of the total number of large subdivisions in Florida and probably 90 percent of all subdivisions which operate in interstate commerce from our State.

There are numerous outstanding communities which come under the purview of our board, and I am gratified to tell you that many of these subdividers plus others who give a deed at the time the land is sold have done a great deal toward improving conditions for Floridians and prospective residents. They have constructed thousands of miles of roads at no expense to the State or county governments; they have undertaken extensive drainage and filling programs and have planned communities with a view toward the need for recreation, culture, business, scenery and the free flow of traffic. These preplanned communities will prove, in the long run, to be better than the communities which have simply sprouted up without design or regard for proper zoning and civic needs.

Mr. Chairman, you requested me to give my opinion as to the need for further Federal legislation in the fields of interstate land sales. I understand that the most popular proposal presently being considered is to put this business under the jurisdiction of the Securities and Exchange Commission. Such legislation would have beneficial characteristics, especially for subdividers, in that it could supply uniform standards and administrative procedures. It would prove less costly to subdividers who register in several States and pay substantial sums in registration fees as well as the costs of investigation and delay. Another advantage is that the Federal Government has jurisdiction over the proverbial fast operators in suede shoes, whereas the State can only follow them to its borders.

These and other possible advantages, however, are far outweighed by the public benefit from State regulation. The State is much closer to the problems and needs of its individual citizens. The situs State can more quickly and effectively enforce laws. It is more familiar with the topography of the land and the type of land transactions in that State. It is in a better position to know whether a proposed sale or engineering plan is fatally defective.

The regulation of subdivisions involves not only their advertising, but it also raises problems of drainage, sewage disposal, engineering, road construction, availability of potable water, zoning and taxation. The situs State could work more effectively to tie in its regulation of advertising with other State agencies which have responsibility in the areas other than advertising. But most important of all—it has been our experience that the great majority of legitimate complaints arise from persons who purchase at the site. The transactions do not have an interstate character. We found that the greatest loophole in the old Florida interstate advertising law was the fact that intrastate transactions were not watched. Twelve million tourists come to Florida each year and a substantial number of them are subjected to sales promotions by subdividers. Contrary to the popular caveat that "you should see the property before you buy," we find that persons who visit the property prior to purchase, quite frequently are duped more quickly and easily by overzealous salesmen than the persons who have the opportunity to read and reflect on advertising and public reports in the quietude of their own homes before investing.

It is my opinion that the existing Federal legislation giving authority to the Post Office Department, the Federal Trade Commission, and the Justice Department can be of great value in curbing and punishing those who have been guilty of fraud and misrepresentation in interstate commerce. However, to effectively deter misrepresentation and provide reasonable regulation, the responsibility must lie in the State and specifically in the State wherein the land is located.

Florida is not without its embarrassing scars, but we have profited by our experiences. We will continue to acknowledge our responsibility. We will continue through reasonable regulation to inspire fair dealing for all purchasers. To this end every effort shall be made to promote the highest ethical standards in the land development industry; to make available to purchasers full and

fair disclosure and to relentlessly pursue, expose, and prosecute those who violate the law.

Senator WILLIAMS. I regret that I have to leave and go over to the floor. We are most grateful to you gentlemen for being here.

Mr. McWHIRTER. I would like to offer into the record, sir, several other exhibits. They are a report that was the basis upon which the Florida installment land sales law was passed.

(See inserts following testimony on p. 173.)

Senator WILLIAMS. I will pass the gavel to my distinguished chairman, Senator Smathers. We have had some excellent testimony from Florida today, Senator Smathers.

Senator SMATHERS. As I understand our problem, we have had in the past some difficulty, but the State legislature, did it not, passed a law and set up a committee?

Mr. McWHIRTER. Yes, sir; that is correct.

Senator SMATHERS. What is your title?

Mr. McWHIRTER. I am the executive director of the Florida Installment Land Sales Board and with me is Mr. Criser, who is our board chairman. He is from West Palm Beach and is an attorney there, as you know.

Senator SMATHERS. Let me get just right to the point.

So far as you people know, has there been any fraud with respect to advertising Florida land, Florida lots, and Florida opportunities insofar as elderly citizens are concerned?

Mr. McWHIRTER. Yes, sir; there has.

Senator SMATHERS. Does any of that go on today?

Mr. McWHIRTER. Yes, sir; it does.

Senator SMATHERS. To what extent does that go on?

Mr. McWHIRTER. I cannot define that, sir. Fraud, by its nature, is a deceptive and elusive item and we are unable to pin it down. Where we pin it down, we try to put a stop to it. I think we have effective legislation to put a stop to it.

I would like to tell you a story told to me by a Florida subdivider. He tells the story and it points out the fact that there is nothing that legislation in and of itself can resolve when it comes to human relations.

The subdivider told me that a Boston doctor came in to visit him one day. This man was selling land in Collier County. The area in which the land was being sold was located, I believe, 10 miles from the nearest road. The doctor had purchased 10 acres of land. Part of the year it is under water. It is unsurveyed and it is not really very valuable land presently. But the doctor had paid a certain sum for it.

This subdivider said the doctor came in to see him and asked to see the land he had bought. The subdivider asked, "Where are you staying?"

The doctor said, "Here in Miami." The subdivider said, "Why don't you take a nice swim?" The doctor said, "I want to see my property." The subdivider said, "I would like to show it to you but it is deep in the Everglades. You have to take the Tamiami Trail 50 miles due west. There you can find a Seminole village and perhaps you can get a guide to take you to your property. It is a rough trip. I do not want you to go with your family. You can go alone."

The doctor said, "I want to see the property." The subdivider said, "I have not seen it myself. If you do see it, would you report to me? I would like to hear about it."

The doctor did not call back and so the subdivider called him. The doctor said that he had not seen it, but he allowed he would.

The second day the same thing happened. The doctor did not call and the subdivider called him. On the third day his wife answered the telephone and she said that he had gone to see the property. But the doctor went to the subdivider again instead and said, "You have been so frank telling me what this property is like, but I am so confident of the value of Collier County, I would like to buy 10 acres more for my son and 10 acres for my son-in-law."

He returned to Boston. This subdivider tells me that the doctor has been responsible for 20 other sales. It is our thesis that nobody can tell these people what they want to buy. If they have the opportunity of full and fair disclosure, I think the Government has concluded its responsibility.

Florida will continue to acknowledge its responsibility and to this end we are going to make every effort to promote the highest ethical standards in the land development industry. We want to make available to purchasers full and fair disclosure and to relentlessly pursue, expose, and prosecute those who violate the law.

Senator SMATHERS. It has been my opinion that while we had a great deal of this in years gone by, comparatively speaking, there is no longer a great abuse of this selling business; that is, selling through the mail and defrauding elderly people through the mail. Am I wrong or right about that, Mr. McWhirter?

Mr. McWHIRTER. It has modified to a great degree. We thought when the legislation was passed that there were approximately 1,000 subdividers in the State of Florida selling land by means of installment contract. So far, 230 have registered with us, and it is my opinion that this constitutes 80 to 90 percent of the people in this business. A lot of them, as soon as the regulation was passed, got out of the business.

Senator SMATHERS. When was the legislation passed?

Mr. McWHIRTER. It was passed in the last session of the Florida Legislature in April of 1963, and went into effect on September 1, 1963.

Senator SMATHERS. So your operation is a brand new one.

Mr. McWHIRTER. Yes, sir.

Senator SMATHERS. But you say after the legislature passed this act that 90 percent of the men and people and companies who deal in this installment land sales joined your organization or came under the supervision of your organization; is that correct?

Mr. McWHIRTER. I think we have presently 80 percent of the people operating solely in the State and approximately 90 percent of the people that are operating beyond the State boundaries.

Senator SMATHERS. The 10 percent who are not registered, are they the ones you are directing your efforts to control?

Mr. McWHIRTER. Yes, sir. We are trying to locate them.

Senator SMATHERS. Is this a mail-type business?

Mr. McWHIRTER. Yes, sir. A substantial part of it is mail. A great part of it is land that is sold on the site.

Senator SMATHERS. Is it easy to defraud a person when they come down and look at a piece of land and want it? How do they defraud a fellow when he looks at it and says, "I will take this?" How does the fraud result?

Mr. McWHIRTER. It is difficult to produce a fraud in that area. However, misleading and fraudulent statements have been made in this regard. Frequently a very big subdivision which will have several thousand acres, will also have an area that is well-developed and beautiful. A salesman will show the prospective purchaser around the well-developed beautiful area, and sit him down and tell him in 1 year his property is going to be developed just that beautifully, although it may be 10 to 12 miles away.

This is an out-and-out misrepresentation, fraud and a lie. We have also experiences where salesmen have told prospective purchasers that they can get a full refund of their money. This is not true. So far, we have taken, I think, five proceedings against salesmen who have made this representation. We are doing everything we can to take away their licenses.

Senator SMATHERS. Are these subdivisions in which you have had experience in this area developed by men who would fall in the characterization of the well-known, well-respected land developers that have been operating in Florida for quite some time, or are these just individual developers?

Mr. McWHIRTER. You have this situation, Senator. We have many very, very fine subdivisions in Florida. These developers have done a wonderful job at private expense rather than public expense. But even in the finest subdivision, you find a maverick salesman who needs the money and it is more important to him to make the sale than it is to tell the truth. These are the people we are trying to direct our efforts at as well as the subdividers themselves.

Senator SMATHERS. Do you not find that is true pretty much in every business? I remember seeing a car with a sign on it saying, "This is a lemon." Apparently the man who sold it to him told him it would go very fast and would get tremendous mileage.

Do you see any pattern of any company, as such, that makes a practice of using the mails and using literature of various kinds, advertising media, to actually mislead people with respect to what they are buying and where they are buying and what is going to be done? You talked about individual salesmen who do oversell. We know that happens in all kinds of businesses. But do you find any pattern in this with respect to any development companies in the State?

Mr. McWHIRTER. This is a very gray area. Something that I think might be very misleading quite frequently a subdivider will tell us: "No, that is not misleading. Any fool can understand that." This reflects on me, because I do not understand it frequently.

We have these standards of things in advertising we think are misleading and we tell subdividers that we think they are misleading and they cannot use them. In that case, we can stop the advertising before it goes out.

Senator SMATHERS. Under that new law which was passed, in your commission, do you have the authority to stop that type of advertising when your board thinks it is misleading?

Mr. McWHIRTER. Very definitely; yes, sir.

Senator SMATHERS. How many other States in the Union have this type of legislation?

Mr. McWHIRTER. There is a study by the Legislative Reference Bureau in Massachusetts in which they estimate there are 25. Mr. McBride who testified yesterday, testified there were 15.

Senator SMATHERS. Which is it?

Mr. McWHIRTER. I believe 25 is closer to the accurate figure.

Senator SMATHERS. I am just trying to get a little summary from you.

As I understand it, what you are saying is that, first, Florida is endeavoring to do something about it and there is some area to work in because of the overexuberance of salesmen and the naivete, sometimes, of people, elderly and, I guess, young, too, who come down and look and are told it would turn, figuratively, a gold mine within a short space of time. That being the case, the Florida Legislature has set up this commission which now has the authority to call these people before it, those who you think are violating the spirit and letter of your law which is calculated to protect the individual investor.

You have the authority to bring them before you for a hearing?

Mr. McWHIRTER. Yes, sir.

Senator SMATHERS. And to give them, in effect, a cease-and-desist order; is that correct?

Mr. McWHIRTER. Yes, sir.

Senator SMATHERS. All of this is actually for the protection of the people who do come to Florida and who do wish to buy lots, singular or more, and spend the remaining part of their life living in Florida?

Mr. McWHIRTER. That is correct; yes, sir.

Senator SMATHERS. Do you think that even the evil at present going on, that your particular group will be able to at least minimize that which now exists?

Mr. McWHIRTER. Yes, sir. I do not think we can stamp it out. I do not think we will ever stamp it out.

Senator SMATHERS. Because you think it is a human problem of overselling?

Mr. McWHIRTER. Yes, sir.

Senator SMATHERS. We must stop any company that has a pattern of this kind of thing. It is not fair to the other good developers, and you know that most of the developers in our State are a credit to the business. Is that not correct?

Mr. McWHIRTER. Yes, sir.

Senator SMATHERS. Mr. Criser, you are the board chairman. Do you have anything you want to add? I have been asking mostly to learn, so maybe you can edify me a little more.

Mr. CRISER. I made a general statement, Senator, earlier. My feeling is this: That this legislation was the result of a committee established by the Governor in the winter and spring of 1963. It was made up of mortgage bankers, Federal savings and loan people, the Florida Bar, the chamber of commerce, every type of business and public agency that could be gotten together.

We toured the State of Florida and made a study. We made recommendations to the Governor, and from those recommendations, this legislation resulted.

We have implemented this legislation with regulations. We think the test is full and fair disclosure. One of our regulations is a re-

quirement that before the person signs a contract to buy installment property that he be given a property report. That property report which is prescribed by our board points out the negative as well as the positive factors affecting that property.

If the person reads that report and has had an honest representation, then that is as far as government should go. You cannot protect a fool against himself.

Now the second point is this: You can set up all the regulations in the world to protect the public, but if you make them so stringent that the legitimate operator cannot operate, and he has to go out of business, you are going to hurt the State of Florida and all the other States.

We think that we have the vehicle in Florida to protect these interests. We think other States can have that vehicle. We think regulation is a State problem. This is a local problem which should be worked out locally.

If we fail to do the job in Florida, why, then probably some Federal regulating agency will take it over.

Now, in the case of mail frauds, interstate commerce, and things of that nature, as long as the States can work out reciprocal procedures between States so that the people in our State can cooperate with people in other States, we think the problem can be solved.

But we think that the press, particularly, had emphasized the bad, and it should be emphasized. But while this is being done, many legitimate developers are being hurt and hurt badly. If this constitutes what will prevail, a lot of people are going to be put out of business and this is bad.

Senator SMATHERS. What percentage of the land developers do you think falls into the category of bad and good in our State?

Mr. CRISER. I think most of the real bad, when the legislation was adopted, got into some other business. I still think there are violations. I think from time to time the violations which are reported to us do indicate that there are certain developers on a large scale who are condoning or allowing certain improper practices to continue. That should be stopped. And where we have found this, we have told these developers to clean their house or we will withdraw their permits.

Senator SMATHERS. I think that is a good statement, Mr. Criser.

Mr. Oriol, do you have any questions?

Mr. ORIOL. I have no questions.

Senator SMATHERS. Thank you, Mr. Criser and Mr. McWhirter. Apparently that will bring to a conclusion this session.

The committee will stand in recess until 2.

Senator Williams asked that it be announced that he will call two witnesses on mail-order preneed burial insurance at 2.

(The exhibits mentioned in the preceding testimony of John W. McWhirter, Jr., follow:)

#### SUPPLEMENTAL EXHIBIT BY THE FLORIDA INSTALLMENT LAND SALES BOARD

The Florida Installment Land Sales Board would like to present the following supplemental exhibits for the committee's consideration:

(1) The report of the Governor's committee on interstate land sales issued to Gov. Farris Bryant on March 29, 1963.

(2) Supplement report by the Governor's committee on interstate land sales for the Florida Legislature, April 18, 1963.



- (3) A copy of the Florida installment land sales law.
- (4) A copy of the rules and regulations of the Florida Installment Land Sales Board which became effective March 11, 1964.
- (5) A copy of Florida law establishing a State commission on aging.
- (6) A brochure explaining the duties and purposes of the Florida Commission on Aging.

The latter two exhibits show some of the efforts made by Florida State agencies to alleviate the problems of the elderly in our State.

#### REPORT OF THE GOVERNOR'S COMMITTEE ON INTERSTATE LAND SALES, MARCH 29, 1963

##### GOVERNOR'S COMMITTEE ON INTERSTATE LAND SALES

Robert T. Brinkley, Tallahassee, Fla., Chairman

##### MEMBERS

##### Florida development industry :

Elliott Mackle, Miami, Fla.  
 Morton Rothenberg, Miami Beach, Fla.  
 Florida Home Builders Association : N. O. McDowell, Jr., Winter Park, Fla.  
 Florida Mortgage Bankers Association : John A. Gilliland, Jacksonville, Fla.  
 Lay member : Hamilton C. Forman, Fort Lauderdale, Fla.  
 Association of County Commissioners : John Talton, Apopka, Fla.  
 Florida Savings & Loan League : Ralph W. Sedgewick, Vero Beach, Fla.  
 The Florida bar : Marshall M. Criser, Palm Beach, Fla.  
 State chamber of commerce : Stephen F. McCready, Ocala, Fla.  
 Florida Association of Realtors : T. P. Warlow, Jr., Orlando, Fla.

A. Frank Green, chairman, Florida Real Estate Commission, ex officio member  
 John W. McWhirter, Jr., Tallahassee, Fla., executive director

TALLAHASSEE, March 29, 1963.

HON. FARRIS BRYANT,  
*Governor of the State of Florida,*  
 Tallahassee, Fla.

DEAR GOVERNOR BRYANT: On behalf of the Governor's Committee on Interstate Land Sales, I am sending you this report.

The committee has held weekly meetings in various parts of the State since it was appointed. We have heard presentations from many persons interested in the development of Florida, and we have drawn heavily on the advice of the Florida Real Estate Commission, and the experience of our committee members. The recommendations we make in this report are calculated to bring about improvement in the Florida installment land sales business and to assure that prospective purchasers of Florida land are fully apprised about the quality and nature of the real estate they are buying.

The committee has made numerous recommendations which will be set out in detail in this report, but basically the recommendations will achieve four purposes :

1. They will restrict State regulatory control from its present dimension to regulation only of subdivisions sold by installment contracts where a recorded deed is not given until all installments are paid.

2. The committee recommends the development of an organization composed of members in the installment land sales business to establish canons of ethical conduct for their subdivision promotions.

3. It is recommended that administration of the law be removed from the Florida Real Estate Commission and placed in a separate State agency to be known as the installment land sales board.

4. Persons wishing to subdivide their land and sell it by means of installment land sales contract will have to secure a permit to do business in this manner. The permit may be revoked if it is shown to the board that the subdivider is guilty of misrepresentation or fraud.

The committee has been honored by the opportunity to serve you. Our report is presented with the hope that it may be of value to you, the legislature, the members of the installment land sales industry, and all other persons who are interested in the healthy economic growth and development of Florida.

Respectfully yours,

ROBERT T. BRINKLEY, *Chairman.*

## FOREWORD

During the past 5 years the United States has seen the birth of a new industry known by various names but typified by the subdivision and sale of real estate by means of an installment land sales contract.

Florida's salubrious climate and tremendous economic vitality made this State a prime location for sales of this type. The great demand for Florida real estate is not limited to persons with large cash reserves. Low-income families looking for a suitable investment in the future and citizens in their golden years, looking for a retirement haven, want Florida land. The installment sales contract is the most feasible way for them to buy.

Unfortunately, in part of the United States, it appeared that the sales promotion of installment land sales was often questionable and that perhaps some of these questionable promotion might be practiced in Florida. To stem the possibility of bilking purchasers of Florida land, and to protect the legitimate subdivider from competition through unbridled deception, the Florida Legislature in 1956 and 1959 adopted legislation which we call the Florida interstate advertising law. The advertising law was placed under the jurisdiction of the Florida Real Estate Commission and has been administered with foresight and expedition.

In the summer of 1962 articles began to appear in national publications which dramatized the abuses in the installment land sales business. In many of these articles attention was directed at the business in Florida. The industry and the chambers of commerce in Florida were quick to demand retractions of loose statements referring to "swampland" sales, but it was apparent that publicity of this type has had and will have the effect of besmirching the value of Florida real estate and scandalizing the legitimate installment land sales business in this State. It was also apparent that where there was smoke, quite possibly there was fire. The great desire for Florida land and the possibility of deception caused Gov. Farris Bryant to appoint a committee to examine interstate land sales.

This committee was delegated the task of scrutinizing the sales of Florida land and making recommendations to the Governor for possible means of effectively protecting unwary purchasers from being misled and, at the same time, protecting a landowner's right to the free alienation of his property with the least possible State interference.

The committee appointed by the Governor was composed of members from the land sales industry, the Florida Home Builders Association, the Florida Mortgage Bankers Association, the Association of County Commissioners, the Florida Savings & Loan League, the Florida Bar Association, the State chamber of commerce, the Florida Association of Realtors, and a lay member familiar with the past and the future potential of Florida land.

The committee was appointed on January 12, 1963, and thereafter held meetings in Winter Park, Orlando, Naples, Tampa, Daytona Beach, Fort Lauderdale, Miami, and Tallahassee. In these cities which, for the most part, are the centers of the installment land sales business, the committee took presentations from country officials, land developers, State officials and all other interested parties who desired to make an appearance. The committee considered the laws that have been passed in other States, and are presently proposed before their legislatures; economic studies that have been made concerning this industry; presentations of land use planners; newspaper and magazine articles; promotional literature used by subdividers, and various other resources. The committee drew heavily from its members and their expert knowledge of the various phases of land sales and promotion which they encounter daily in their professions and businesses.

The committee came to the conclusion that the great majority of the land sales business in Florida is entirely legitimate and imbued with the highest ethical standards. It was discovered, however, that there are some instances where prospective buyers have been uninformed as to the type of land they were buying; some instances where the undercapitalization and the consequent shaky financial foundation of the land developers was such that they could not deliver on their promises; some instances of deception and abuse; and some instances of mere misunderstanding between the land sales industry and the State regulatory agency. It was determined that, by and large, Florida is in the forefront of the States taking farsighted action in curbing land sales abuses. The committee found that Florida had basically a good law that was well administered,

This report contains the present law and the committee's recommendations and that Florida real estate remains one of the best conceivable investments. after considering all presentations made to it. It is our earnest belief, that if the recommendations proposed are incorporated into Florida law, the industry working in combination with a State regulatory agency can weed out unscrupulous dealers, and bolster the sound development and economic growth of our State.

#### THE PRESENT LAW

Sections 475.47-48, F.S.: Makes it unlawful to publish false or misleading information for the purpose of inducing a person to buy real estate. The penalty under the law is a fine up to \$100,000 and 5 years imprisonment, or both.

Section 475.49, F.S.: Gives a remedy to persons who buy land before they see it, relying on false or misleading information published. They may sue to rescind the sale or to get damages (within 1 year after the initial payment for the land or 3 months after the land is seen by the buyer or his agent, whichever occurs first).

Section 475.51, F.S.: With certain minor exceptions, makes it unlawful to publish or broadcast information out of the State relating to real estate offered for sale unless the information is filed with the Florida Real Estate Commission. If "subdivided lands" are offered out of the State, the seller must give the commission information concerning the subdivision to help the commission determine if the advertising is false or misleading. The commission may enter an order to stop publication if it determines the advertising is false or misleading.

Section 475.52, F.S.: Allows the real estate commission to adopt rules and seek injunctive or other court relief to stop the publication of false or misleading advertising.

Section 475.55, F.S.: Provides criminal penalties for violations of the act other than section 47 with a fine of \$1,000 or 6 months' imprisonment, or both.

Under its rulemaking power, the Florida Real Estate Commission has adopted rules which:

1. Prevent the filing and, consequently, the publication of advertising unless it is acceptable.
2. Set a guide for standards of approval and specify certain unacceptable language for advertising.
3. Require subdividers to have fee simple title unless there is provision for mortgage releases of lots as they are sold or a trust account established to assure payment of mortgages on the land.
4. Require a recordable contract to be given to out-of-State purchasers.
5. Require 75 percent completion of all purported improvements or a performance bond to assure completion or a reserve trust account of money paid by installment purchasers to assure improvements.
6. If "homesites" or "building lots" are offered for sale, there must be (a) potable water available; (b) publicly maintained roads to the lots; (c) a sewage disposal system provided or approval of land for septic tanks; and (d) no further draining or filling necessary to make lots usable.
7. Lands advertised for any other purposes must be accessible and usable for this purpose without the necessity of draining or filling or other improvement, and no fact can exist which makes the lands unusable for the advertised purposes.
8. Recreational facilities and other improvements advertised, unless otherwise stated, must be usable at no extra cost and maintained by public authority.

#### RECOMMENDATIONS

1. It is recommended that the land development industry, of its own accord, develop canons of ethical conduct and make every effort to weed out the few unscrupulous operators who bring disrepute on Florida land development and Florida real estate in general.

No law, no matter how thorough, can effectively legislate morals and standards of conduct. Frequently it occurs in business and in other social relationships that mere ignorance of proper standards causes unethical conduct. The committee believes that if this industry, of its own volition, develops a set of canons which would govern its relationships with prospective purchasers and the public in general, subdividers will adhere to these canons.

A sound basic law, bolstered by effective canons of ethics, will be the strongest possible combination that could be devised for fair land sales transactions.

2. It is recommended that a State regulatory agency be established to be known as the Florida Installment Land Sales Board. This agency will be composed of two knowledgeable members of the industry and a lay member. It will be financed through fees paid by the persons regulated.

Presently the Interstate Advertising Act is administered by the Florida Real Estate Commission. This commission's primary administrative duty is to license, educate, and regulate real estate brokers and real estate salesmen.

There are over 44,000 licensed real estate brokers and salesmen in the State. The installment land sales business is a peculiar type of real estate transaction. The promotional methods used are substantially different than those used by a broker or salesman, and the subdivider handles tremendous sums of money which are at his complete disposal during the development period.

Because this is a unique industry, with unique problems, it does not lend itself to administration by a commission composed of real estate brokers. The committee envisions that the Florida Installment Land Sales Board will be composed of persons who are familiar with this type of business, and that its staff will be devoted entirely to the regulation of subdividers, subdivision advertising, and attendant problems. The new board will not be a drain on the resources of the State as it will be financed by the subdividers. The industry representatives who appeared before the committee said they would be happy to pay a fair fee in return for effective and full administration.

3. It should be provided that persons subdividing Florida land or land located elsewhere into 50 lots or more and selling a substantial portion of it by installment land sales contract be registered with the installment land sales board.

In the committee's discussions with developers and county officials, and from their study of the typical development of a subdivision, there appeared to be one area in which difficulties usually arose. This area was where there were transactions involving installment land sales contracts. This is primarily because these contracts are not recorded; therefore, the purchasers have no notice of any mortgage foreclosure, and their rights are subordinated to the rights of lien holders, who may foreclose. A subdivider wishing to take advantage of his position cannot feasibly do so when he delivers a recorded deed and mortgage to prospective buyers. The costs for recordation, documentary stamps and the necessary expenses incident to foreclosing on the buyers who do not perform is a greater expense than the subdivided can bear.

By requiring a certificate of registration for persons wishing to enter into the subdivision business, the board, at the outset, can assure that these persons are of good moral and business repute. The board can withhold the privilege of doing business from those persons whose backgrounds make them gravely suspect.

In those situations in which a registrant is misrepresenting his lands and defrauding the public, administrative relief is quickly available to revoke the privilege of selling lands by installment land sales contract. This remedy is far more effective than a criminal action for fraud, which would perhaps result in the conviction of the subdivider, but in all probability would be too slow to be effective in preventing injury to the public.

4. Salesmen selling for subdividers should also be registered with this board upon proof that they are registered with the Florida Real Estate Commission.

The committee feels that salesmen dealing in this business, working for subdividers, should be registered, in order that the board may know who they are and may have an effective disciplinary power over the salesman as well as the subdivider. Mere proof of registration with the Florida Real Estate Commission as a salesman, and his familiarity with the Installment Land Sales Act, will be adequate to substantiate the grant of a salesman's permit by the board.

The board will work hand-in-hand with the real estate commission in regulating salesmen, and can assist in cutting the redtape now necessary to move salesmen from one subdivision to another.

5. Certificates of registration should be suspended or revoked for unethical conduct after a full hearing.

A substantial administrative power is given the board in the right to suspend or revoke a certificate of registration and consequently a person's privilege of doing business by installment land sales contract. This administrative power should be checked to be sure that it is not used capriciously; therefore, it shall be in every case necessary to have a full hearing before a certificate may be suspended or revoked. At this hearing, the registrant should have an opportunity to present all evidence he deems necessary in his own behalf and shall be entitled to fully cross-examine witnesses and rebut evidence presented against him.

6. It is recommended that registrants be required to file all promotive publications with the board to enable the board to examine the advertising to determine if it gives full disclosure and is not false or misleading.

The present interstate advertising law requires the filing of all promotive publications to ascertain if they are false or misleading. Frequently information is not false and misleading per se, but by the same token is still unfair to the prospective purchasers because it does not give a full picture of the land to be purchased. The advertising is not required to disclose peculiar physical features of the land which would perhaps rule out its use for the purchaser. By requiring full disclosure, the board will have a freer hand in drafting rules with specific do's and don'ts to meet the needs of the subdividers.

7. The board should have power to examine subdivisions sold by installment land sales contract to determine if the subdivider can convey good title; if the rate of development is proceeding as promised in advertising; and if the financial structure of the subdivider is such as to enable the completion of promised improvements.

Complaints were listed with the committee both by purchasers and subdividers, indicating that the Florida Real Estate Commission under its present setup cannot examine the subdivisions. The commission must rely solely on the representations of complainants and subdividers. The advertising is reviewed primarily by lawyers, and not by engineers or accountants who are familiar with land use and financial structures. The new board will have the advice of engineers and accountants to examine not only the property itself, but the improvements on the property and the financial structure of the subdivider to reasonably assure that the affirmations made in advertising can and will be fulfilled.

8. In order to facilitate the ability of subdividers to get their advertising before the public in the shortest possible time, it should be mandatory that the board approve or disapprove the advertising shortly after it is filed; and if the board takes no action within the time limit, advertising may be published without board action.

Many persons who appeared before the committee commented about the need for getting their advertising to the public quickly. The promotional selling of land by installment contract is on a seasonal basis; if advertising is not approved quickly, the advertising will not reach the northern market during its most susceptible period, the winter. Subdividers are also injured by the fact that taxes and interest are substantial costs in large acreage tracts and these costs accrue daily. If advertising is not approved and the land is lying fallow, the subdividers are suffering a substantial loss of money which could be effectively employed in other channels to enhance land value. The committee feels strongly that to assist a developer in his financing and program of development, his advertising must be approved quickly. The board should approve or disapprove properly filed advertising within a specified time or the subdivider shall be entitled to use his advertising. If it should appear later that the advertising does not give full disclosure or is false and misleading, the board may enter an order of disapproval and prohibit further distribution of the material until it is properly amended.

9. The board should be given rulemaking powers to allow it flexibility in dealing with the exigencies of land development.

The committee strongly recommends that any legislation drafted should be broad in setting up standards within which the installment land sales board should operate. The board should have flexibility in its rulemaking power, to satisfy the need for speedy action to assist developers in obtaining financing and utilizing new promotional plans or to stop loopholes employed by the more devious operators. This will allow Florida development to grow and expand constantly without the need of waiting until the next legislature convenes, should it appear in practice that a well-intentioned section of the law does not fulfill its purpose.

10. It is recommended that the portions of the present advertising law which pertain to out-of-State advertising be repealed. Sections 475.47 and 475.48, which provide criminal penalties for any person advertising falsely, should be retained and the penalty stiffened to make it a felony.

The new Installment Land Sales Act, as it is proposed, greatly limits the previous interstate advertising act and imposes regulation only on a small segment of Florida land sales. To continue the protection of the public from false and misleading advertising by any land seller, it is recommended that sections 475.47 and 475.48 be retained.

It is further recommended that the penalty for violating this section should be stiffened. The present act provides penalties not to exceed 5 years imprison-

ment or \$100,000 fine or both. It is recommended that this statute provide that the imprisonment would be in the State penitentiary. As the act presently reads, the 5 years imprisonment would be in a county jail and, consequently, violation of this act would not constitute a felony. We believe that the legislature intended to make this crime a felony by the substantial sanction it approved and this suggested recommendation will only serve to effect the previous intention of the legislature.

11. A criminal penalty should be provided for the subdividers who do not comply with the requirements of the Installment Land Sales Act.

A criminal penalty in addition to the right to revoke a certificate will be a further deterrent to unlawful sales.

12. The installment land sales board should have the power to seek injunctions and receiverships in appropriate cases in order to prevent not only the publication of false or misleading advertising but also the sale of land. Receivership may be sought in court for companies who have grossly abused the law and whose shaky financial status may impair their promises to the public.

Under the present provisions of the law, the real estate commission may seek injunctions to stop false and misleading advertising, but in cases of gross abuse the damage is already done when advertising has been distributed. The board should have an additional power to stop the sale of land in court to protect the public. Where it appears that the machinations of an unscrupulous dealer have been such as to endanger the funds presently invested and to be invested under existing and future land sales contracts, the court should have the right to appoint a receiver to handle the finances of the corporation during the throes of financial distress. This will have the beneficial effect of allowing the receiver to properly disburse funds as they come in to protect the investments already made in the real estate and to perhaps save a shaky subdivider who otherwise would go into a bankruptcy. Saving a subdivider from bankruptcy may save investments of his purchasers and creditors and also enhance the systematic and well-planned growth of the community.

13. It is recommended that this State advocate a uniform reciprocal enforcement proceeding to be enacted in all of the States to enable the prosecution of subdividers who violate the law but are not amenable to process in the State where the injury was done.

It frequently arises that land sold is in another State, or the subdivider selling the Florida land is located in another State. Presently the only effective way to obtain a remedy against these subdividers would be through action by the Federal Government in a prosecution for mail fraud or for violating the tenets of the Federal Trade Commission. The actions brought by the Federal Government would only be interested in the criminal aspect of the case, and not the sound development of the land sales in this State. The criminal investigation by the Federal Government, under present law, has proved to be time consuming and consequently ineffectual, since many subdivisions could be bought, developed and sold before the United States could take action. By establishing a reciprocal enforcement act, wherein the States could obtain jurisdiction over wrongdoers in other States, the Government at the lowest and consequently the most interested level could quickly take action to hobble unlawful transactions.

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#### SUPPLEMENTAL REPORT BY THE GOVERNOR'S COMMITTEE ON INTERSTATE LAND SALES

(Prepared for the Florida Legislature, April 18, 1963)

#### PREFACE

In its examination of the land development business in Florida, the Governor's committee on interstate land sales received written and oral presentations from varied sources.

This supplement sets out some of the more telling comments considered by the committee when it prepared its report of March 29, 1963, for the Governor. The committee felt that many of the complaints were justified; however, some greatly overstated the evils of the land development business. By preparing an outline of these criticisms the committee does not wish to lend verity to any particular complaints; the reader will even find that some are inconsistent. It is only hoped that this information will prove enlightening to persons who have not had the opportunity to study this fascinating new industry.

It will be seen that many of the complaints came from disillusioned buyers who built overambitious expectations on inexperienced study of "slick sheet" brochures. It was in this area that the committee felt State action would be justified. Its recommendations were hopefully designed to place parties in a more equal position at the bargaining table to assure buyers of accurate information without interfering with a seller's right to advertise and sell his land.

#### WHAT THE PROBLEMS ARE

##### *A. According to subdividers*

1. Florida Real Estate Commission staff is not large enough to do an effective, expeditious job.
2. The commission does not inspect property to determine the validity of advertising claims.
3. Advertising is not processed fast enough by the real estate commission, thus deterring an effective sales program.
4. The "do's and don'ts" of advertising are not clearly defined.
5. Regulations are not uniformly applied.
6. Performance bonds and escrow accounts, as presently administered, are burdensome and unworkable.
7. There is too much redtape in transferring licensed salesmen from one subdivision to another.
8. Developers are not given an opportunity to investigate complaints before the commission takes action.
9. Many subdividers want a separate agency composed of knowledgeable personnel to continually analyze the rate of development, financial status, and all other aspects of the business.
10. The powers of the commission should be clearly spelled out.
11. Regulations should be tighter with more severe penalties, but should not be promulgated unless the subdividers are given an opportunity to be fully informed of the proposed rules.
12. Most subdividers that appeared before the committee expressed an indication that they would like to be licensed, with the proviso that once a license is issued there would be no further requirement that advertising be approved.
13. Intrastate advertising should be regulated as well as interstate advertising.
14. The subdividers wish to be provided with a method to require the commission to take action on advertising to prevent undue delay.
15. In many subdivisions the land is sold long before it is going to be used. It was proposed that instead of requiring the subdivision to be fully improved long before it is sold, that a method should be provided whereby trust funds could be set up to assure improvements when they are needed, in lieu of requiring their completion and subsequent deterioration before they are used.

##### *B. County officials comments*

1. Nearly all county officials expressed a need for intrastate advertising control.
2. The county officials uniformly desired a statewide general plat law with an enabling clause, allowing the counties to either accept or reject the plat law.
3. Many county officials want all subdividers to record their plats and to have roads and suitable drainage provided to meet county specifications, before land is sold.
4. Some counties are reluctant to see this type of subdivision developed because most of the homesites will be tax exempt. The arrival of new residents will cause added county expense to meet the increased need for schools, roads, fire protection, utilities, etc.

##### *C. State and county planners*

1. Assembly of land; its planning, financing, development, and sale call for close coordination and timing. Legislation must be so drawn and administered that it will not hamper legitimate real estate development.
2. Planners complained that subdivision sales frequently contemplate large population areas but plans do not give regard to—
  - (a) The need for the multilane streets and major thoroughfares that the population will require.
  - (b) A central water supply and proper sewage disposal system that will be necessary after the community population reaches approximately 50 percent of its prospective size. After the community is inhabited the costs to install these utilities will be considerably more.

(c) Frequently the developers receive a substantial profit but assume no responsibility for the cost of the necessary improvements.

3. After a large acreage tract is broken into small parcels with scattered ownership, it is difficult if not impossible to reassemble the parcels into a usable unit for proper development when the time is propitious. Therefore the surrounding area may be properly developed with gaps left in future planning by undeveloped land.

4. Certain lands of necessity must be set aside for water conservation, storage, and natural wildlife habitat. The Central and Southern Florida Flood Control District, the Florida Park Service, the U.S. Park Service and other Federal and State agencies have obtained some land for these purposes and will require more as funds are available and the need arises. The land that must be acquired is frequently the same land that is being sold by installment sales promotion because this land can be obtained inexpensively by developers. The effect of the subdivision and sale of this property at a large markup will make it very expensive for the State and Federal Government to acquire the property by eminent domain when the need arises.

5. The areas in which this type subdivision appear are generally remote. There are no employment opportunities for the prospective inhabitants, consequently they become a drag rather than an asset to a healthy economy.

6. The efforts to bring industry to Florida will be hampered by substandard development, because of the initial high cost of land, high taxes and unavailability of facilities.

#### *D. Historians' comments*

Historians referring to the land boom of 1815-18; 1832-36; 1854-57; the 1920's and the 1930's say that certain features have always been present. These are:

- (a) Land speculators get large tracts, often on credit.
- (b) These tracts are subdivided and sold in small parcels.
- (c) Scattered building takes place, making a need for public services and the consequent increase in taxes and assessments.
- (d) Vacant land, generally purchased by small income families, becomes tax delinquent.
- (e) Tax arrearages and penalty assessments exceed value of lots.
- (f) Clearing title is costly and slow and owners are hard to locate, so small parcels have stayed "dead" and unused.
- (g) Original improvements are inadequate.

#### *E. Complaints of buyers*

1. Many buyers thought they were buying a lot to build on when "investment" lots were offered, but the lot purchased was not usable as a homesite.

2. Land frequently is inaccessible and they must trespass to get to it. Easements may be provided by the subdivider, but frequently they don't tie in with easements over land not owned by the subdivider which must be crossed to reach a public road.

3. The buyers frequently complain that they have paid out their installment contract early, only to find that the contract does not provide for a deed until time when the contract would have normally paid out.

4. Buyers didn't know that they would bear the cost of developing land and maintaining improvements.

5. Utilities' sources to remote subdivisions are very expensive.

6. Hard-sell tactics anger many buyers who later reflect on their purchase.

7. Although the right to rescission or damages is given the buyers by law, it is an inadequate remedy for small families because usually the cost of a suit will exceed the value of the land in question.

8. Since most buyers hold unrecorded contracts, if there is a foreclosure of property, they get no notice, and could lose their land, although payments are up to date. In fact, if the purchase contract is factored by the subdivider, the buyer may still be responsible for payments even after his lot has been foreclosed.

9. Frequently buyers misunderstand the amount of habitation on the land when they buy.

#### *F. Florida Real Estate Commission critique*

1. Intrastate advertising is not regulated.

2. The present law does not give effective penalties.

3. Court actions are normally too slow and the Commission has not been too successful in getting State's attorneys to follow through on criminal action.



4. The burden is on the Commission to prove that a subdivider is making false representations. The Commission feels the burden should be shifted to the subdivider.

5. Because of the futuristic nature of the representations, it is impossible for the Commission to determine whether advertising is false or misleading. It will only be false or misleading if the companies are unable to perform their promises.

6. Sometimes one subdivision meets standards for advertising, but the subdivider sells other lands to persons inquiring about the advertisement.

7. Tremendous amounts of time are lost by the Commission staff in conference with advertisers trying to agree on what is false or misleading.

8. The Commission cannot control misrepresentation over the telephone or in person.

9. The Commission feels that some companies are shaky financially and won't be able to perform their promises because:

(a) The existing performance bonds are not adequate and adequate ones are hard to devise.

(b) Most of the money from installment sales goes into further sales promotion and land acquisition, not enough into development.

## CHAPTER 63-129

### SENATE BILL NO. 323

AN ACT creating the Florida Installment Land Sales Board; prescribing its powers and duties; requiring the registration with said board of subdividers and salesmen of subdivided real estate and fixing the fee therefor; providing for the revocation or suspension of certificates of registration; making unlawful the publication of misleading information; providing for penalties and civil remedies; repealing Sections 475.42(1) (e), 475.50, 475.51, 475.52, 475.521, 475.53, 475.54 and 475.55, Florida Statutes; providing an effective date.

WHEREAS, it is expressly recognized by this legislature that the sale of land by installment land sales contracts, as more particularly described in this law, is of great and vital impact on Florida's economy, and

WHEREAS, such land sales constitute a major industry within this state, employing many people, attracting thousands of visitors and new residents, and contributing countless dollars to the total annual gross income of the state, and

WHEREAS, the manner of conducting this type of business, including sales, financing, advertising and promotional methods, is of direct concern not only to those engaged in the business but to the purchasers and public as well, and

WHEREAS, this legislature recognizes the inherent constitutional right, subject to reasonable restrictions, of every owner of real property to dispose of it to a willing purchaser at any mutually agreed price, whether it be raw undeveloped acreage, sub-divided lands with future improvement planned, or improved homesites in established developments, so long as full and fair disclosure is made and false and fraudulent methods are not employed, and

WHEREAS, in order to preserve these inherent rights and at the same time protect the interests of the public and purchasers of such lands, this legislature deems it in the public interest that installment land sales be subject to reasonable regulation as provided herein, NOW, THEREFORE,

*Be it Enacted by the Legislature of the State of Florida:*

Section 1. *Installment land sales act.*—This act may be cited as the Florida installment land sales act.

Section 2. *Definitions.*—In this chapter, where the context permits, the word, phrase or term:

(1) Board means Florida installment land sales board.

(2) Installment land sales contract means any money, receipt, certificate, contract or any instrument in writing evidencing an arrangement or agreement whereby the purchase price for real property or any interest therein is amortized by periodic payments and the conveyance with recordation in public records of legal title to the purchaser thereof is deferred.

(3) Person means an individual, company, corporation, association, organization, partnership, trust, syndicate, agent, broker, salesman, representative, or any other legal entity.

(4) Registrant means any person who has been issued a registration certificate by the board authorizing that person to sell subdivided lands by means of an installment land sales contract, either as a subdivider or a salesman.

(5) Subdivided lands means any improved or unimproved lands divided or proposed to be divided by one (1) owner or by a group acting in concert for the purpose of sale or lease, whether immediate or future, into more than fifty (50) lots, parcels, or units.

(6) Subdivision means the composite group of lots, parcels, or units of subdivided lands resulting from the division of a single land area contained in a continuous boundary to be sold or leased, offered for sale or lease, and to be known and designated by a common name.

(7) Subdivider means a person or group of persons acting in concert who, as the owner or through an agent;

(a) Makes or issues more than fifty (50) installment land sales contracts in any one (1) year; or

(b) Offers for sale or lease by installment land sales contracts more than fifty (50) lots, parcels, or units at any one time; or

(c) Offers for sale or lease by installment land sales contracts twenty-five per cent (25%) or more of the lots, parcels, or units in a subdivision at any one time.

(8) Salesman means any person who within the state of Florida, as agent or employee, performs in behalf of a subdivider any one or more of the services or acts set forth in section 475.01(2), Florida Statutes.

(9) Initial filing means the first filing of advertising and information pertaining to particular subdivided lands with the installment land sales board.

(10) Subsequent filing means any new or altered information or advertising pertaining to land in a subdivision for which an initial filing has been made and approved.

(11) Notice means a communication by mail from the board executed by its secretary or other duly authorized officer. Notice to registrants shall be deemed complete when mailed to the registrant's address currently on file with the board.

Section 3. *Installment land sales board, terms, organization, quorum.*—There is hereby created and established a state board to be called the installment land sales board, said board to consist of five (5) persons, resident citizens of the state to be appointed by the governor, three (3) of whom shall have been directly engaged in the sale or development of real estate subdivisions as defined by this act within the state for a period of four (4) years, and two (2) members not directly engaged in this business.

The members of the board shall serve until the expiration of the term for which they shall have been appointed and until their successors have been qualified. The first appointment to be made shall be as follows:

Two (2) members of said board shall be appointed for the term of one (1) year; two (2) members of said board shall be appointed for the term of two (2) years and one (1) member of said board shall be appointed for the term of three (3) years. All appointments made thereafter shall be for the terms of three (3) years and that of two (2) members shall expire each year except that on every third year the term of only one (1) member shall expire. Upon the death, resignation, or removal of a member, his successor shall be appointed for the unexpired portion of his term. As the new member is appointed each year, the board shall reorganize and select a chairman. Three (3) members of the board shall constitute a quorum to do business.

#### Section 4. *Duties, powers.*—

(1) The board shall administer, co-ordinate and enforce the provisions of this act and may examine witnesses and administer oaths and shall investigate persons engaging in the installment land sales business in this state to ascertain whether they are violating any of the provisions of this act.

(2) The board shall conduct such hearings and keep such records and minutes as shall be necessary to an orderly dispatch of business.

(3) The board may require the filing of annual and other reports and all other data by persons registered pursuant to this chapter.

(4) The board shall adopt reasonable rules and regulations and may amend or repeal the same after due notice to registrants and public hearing thereon, consistent with the purposes of this chapter not in conflict with the constitution and laws of the United States or of this state. Such rules shall include but shall not be limited to provisions for escrow and trust accounts or other means to reasonably assure that purchasers will receive the title contracted for and

all improvements promised; to assure full and fair disclosure; and such other rules as are necessary to effectuate the intent of this act; provided, however, that the existing rules and regulations of the Florida real estate commission relating to false and misleading advertising shall be the rules and regulations of the board, until such time as same are amended, repealed, or revised by the board as provided by this section.

(5) The board shall set such fees within the limits hereinafter provided as may be required to administer this act.

(6) The board may subpoena witnesses, provide for the taking of testimony by deposition, prescribe rules of procedure, and exercise all administrative powers, issue orders including cease and desist orders, and writs and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements. The accused may subpoena witnesses in all revocation and suspension proceedings under this chapter upon payment of the fees required by law for like service in suits at law.

(7) The board may adopt and prescribe qualifications for the appointment of hearing examiners and the procedures before such hearing examiners, provided, however, that the board shall not be bound by findings of fact or conclusions of law of such hearing examiners. It shall have discretionary authority to take additional testimony and evidence, and to grant and hear oral arguments and rehearings in all cases.

(8) Printed copies of rules and regulations or written copies under the seal of the board, having been duly filed with the secretary of state, shall be prima facie evidence of their existence and substance and the courts shall judicially notice the existence and substance of such rules and regulations without the necessity that they be introduced into evidence for any judicial proceedings.

(9) Final actions of this board shall be reviewable as provided by chapter 120, Florida Statutes.

(10) The conferral or enumeration of specific powers elsewhere in this chapter shall not be construed as a limitation of the general powers conferred by this section.

*Section 5. Privileges and immunities of the board and individuals.—*

(1) The members of the board are entitled to the same protection and immunities as are other quasi-judicial officers, and the acts of the agents and employees of the board, acting within the scope of their authority and employment, shall not be called in question except by the board. Its papers, documents, reports or evidence shall be confidential until after the same shall have been published at a hearing held under this chapter unless, after notice to the board, and hearing, a court shall determine that the records are relevant to a case in issue and that the board or registrants will not be unreasonably hindered or embarrassed; provided, however, that the board shall, upon the request of any county commission, provide said commission with a copy of any plat or survey concerning real property located in its county as same may be filed with the board; provided however that usual discovery processes permitted parties under Florida Rules of Civil Procedure shall be available to any accused in revocation and suspension proceedings hereunder as to said papers, documents, reports or evidence in the possession of said board.

(2) Except as in this section otherwise provided, all records and information disclosed to the board and its employees shall be treated as confidential unless the person about whom the disclosure is made expressly waives the privilege of confidentiality.

(3) In revocation or suspension proceedings, and in investigations preceding or incident thereto, unless waived by the accused, the investigations, hearings and records shall not be made public unless and until an order of suspension or revocation has been rendered by the board and becomes final.

*Section 6. Board to designate place of executive offices, hearings.—*The executive offices shall be established and maintained at a place designated by the board, which designated place may be changed in the discretion of the board, provided, however, that the board may, at its election, provide for meetings to be held throughout the state at its discretion.

*Section 7. Board meetings; compensation of members.—*The members of the board shall receive ten dollars (\$10.00) per day, or any part of a day, while attending official board meetings, not to exceed twelve (12) meetings per year, and shall receive per diem and mileage as provided in section 112.061, Florida Statutes, from the place of their residence to place of meeting and return. The board shall meet at least once each month.

Section 8. *Employees of board.*—The board shall employ, and at its pleasure discharge, a secretary and such attorneys, inspectors, clerks and any other employees as shall be deemed necessary, and shall outline their duties and fix their compensation. The amount of per diem and mileage and expense money paid to employees shall be as provided in section 112.061, Florida Statutes.

Section 9. *Seal and authentication of records.*—The board shall adopt a seal by which it shall authenticate its proceedings. Copies of the proceedings, records and acts of the board, and certificates purporting to relate the facts concerning such proceedings, records, and acts, signed by the secretary and authenticated by said seal, shall be prima facie evidence thereof in all the courts of this state.

Section 10. *Disposition of moneys received.*—All moneys received by the board under this chapter shall be paid to the secretary of said board. Such moneys shall be deposited in the state treasury into a separate trust fund for the board. The board shall be financed solely and individually from income accruing to it from fees, licenses and other charges collected by the board and all such moneys are hereby appropriated to the board. All salaries and expenses shall be paid as budgeted after such budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which may be included in the general appropriations act.

Section 11. *Payment of expenses of board.*—All expenses incurred by the board in the administration of the provisions of this chapter shall be paid therefor upon warrants of the comptroller, when vouchers therefor are exhibited having been approved by the board.

Section 12. *Registration of subdividers and salesmen.*—

(1) No subdivider shall engage in business in this state and sell or offer for sale real property located in Florida, or any other state, district, territory or foreign country by way of installment land sales contract, unless he has registered in the office of the board and has been issued a current registration certificate pursuant to the provisions of this chapter. A person shall be deemed engaged in business in this state for the purpose of this act and other statutes of this state relating to persons engaged in business in this state when the subdivided lands are located in this state; when any part of the operation of such business is conducted in this state; or when any advertisement, promotion, or solicitation is made in this state with respect to subdivided lands located outside this state.

(2) A written application for registration as a subdivider shall be filed in the office of the board in such form as the board may prescribe, verified by oath, which shall state the principal office of the applicant, wherever situated, and the location of the principal office and all branches in this state, if any, the names or style of doing business, the names, residences and business addresses of all persons interested in the business as principals, copartners, officers and directors; specifying as to each his capacity and title, the general plan and character of business and a resume of the applicant's background and experience. The board may require such additional information as to applicant's previous history, record and association as it deems necessary to establish the good repute in business of the applicant.

(3) If the board finds that the applicant is of good moral repute, and has not been convicted of a felony in this state or in any other state, or in the United States courts and has complied with the provisions of this chapter, including the payment of fees hereinafter provided, the board shall issue a registration certificate to the said applicant; provided that if the applicant is not a natural person, its managing and executive officers shall meet the qualifications set out herein except for the payment of fees, and further provided, that if the person has been convicted of a felony, such conviction shall not be considered if the person has been restored to his civil rights.

(4) Each application filed for registration as a subdivider shall be accompanied by a filing fee not to exceed one hundred dollars (\$100.00), said fee being nonrefundable. Each subdivider's certificate issued hereunder shall be renewed annually upon the payment of a fee not to exceed one hundred dollars (\$100.00) on or before January 31 in each succeeding year.

(5) No person shall sell or offer for sale subdivided land by way of installment land sales contracts as a salesman until he has obtained a certificate of registration as a salesman from the board; said certificate shall be granted by the board after a showing by the applicant that he is of good moral repute; is familiar with the installment land sales act, and furnishes proof that he is licensed by the Florida real estate commission as an active broker or salesman,

provided this section shall not apply to salesmen in other states, territories or countries selling or offering for sale in such other states, territories or countries, subdivided lands in this state, if such salesman is authorized to make sales or offers of sales of real estate in the State, territory, or country in which he makes such sales or offers for sale.

(6) Each application filed for registration as a salesman shall be accompanied by a filing fee not to exceed five dollars (\$5.00), said fee being nonrefundable. Each salesman's certificate issued hereunder shall be renewed annually upon the payment of a fee not to exceed five dollars (\$5.00) on or before January 31.

(7) In any suit against a registrant involving subdivided lands, the board shall be served with notice and appraised of the status by the registrant. The board may intervene in a suit on behalf of the state to protect the interest of installment land sales contract purchasers upon the filing of an appropriate motion.

**Section 13. Promotive publication; filing with and approval by board; fees.—**

(1) No registrant or his agent or employees shall publish or cause to be published, (a) by means of any newspaper or periodical, (b) by means of any radio or television broadcast, or (c) by means of any written or printed or photographic matter produced by any duplicating process producing ten (10) copies or more, any information offering for sale or for the purpose of causing or inducing any other person to purchase or to acquire an interest in the title to subdivided lands by the use of an installment land sales contract without first filing with the board full and complete copies or descriptions of said information to be published, including the installment land sales contract to be used and any photographs or drawings or artist's representations of physical conditions or facilities on the property existing or to exist, and obtaining the board's approval of such information.

(2) In addition to the information required to be filed under subsection (1), the persons filing shall also file supporting data in the form of vicinity maps, plats, affidavits of the person filing and of disinterested persons, questionnaires and such other documents as may be required by the rules and regulations of the board to show that said information is neither false or misleading and that the person filing has made a full and fair disclosure.

(3) The initial filing fee for each subdivision shall not exceed one hundred fifty dollars (\$150.00) for subdivisions comprising less than one hundred (100) lots, parcels, or units of land plus a fee not to exceed one dollar (\$1.00) for each lot, parcel, or unit over one hundred (100) up to and including one thousand (1,000) lots, parcels, or units and fifty cents (50¢) per lot, parcel, or unit in excess of one thousand (1,000).

(4) Upon the occasion of each subsequent filing of additional information relating to a subdivision for which an initial filing has been made under this subsection, a fee of ten dollars (\$10.00) shall be paid and the board may require such further or other supporting data as may be deemed necessary at the time of the subsequent filing.

(5) The Florida real estate commission shall transfer to the board all pertinent records on file with the commission and, upon the effective date of this chapter, all registrants who have filed with the Florida real estate commission any advertising material relating to subdivided lands from which sales are being made pursuant to the provisions of the existing law, shall pay to the board a fee of one hundred fifty dollars (\$150.00) for each subdivision in lieu of the fee required by subsection (3).

**Section 14. Inquiry, inspection and investigation.—**

(1) When an initial or subsequent filing is made, the board shall cause such inquiry, inspection and investigation to be made as is deemed necessary to determine whether the information makes full and fair disclosure or is false and misleading.

(2) In making any determination that information makes full and fair disclosure, the board shall review such information and all supporting data, together with facts discovered upon inquiry, inspection and investigation, to ascertain:

(a) Whether the representation of the characteristics of the land, improvements (either existing or proposed), ownership and other matters set forth in said information are couched in such language and form as to fully and fairly inform rather than to mislead prospective purchasers and

(b) Whether the publication or dissemination of said information is in furtherance of any land fraud, or swindle or

(c) Whether the plan of sale or development lacks reasonable and adequate safeguards to reasonably assure purchasers that they can receive the kind and quality of title and improvements called for in their purchase contract or agreement.

(3) An initial filing shall be approved or disapproved by the board within forty-five (45) days from the date of filing, provided, however, that in the event the board fails to approve or disapprove such information within forty-five (45) days, the person filing may publish or cause to be published or distributed all information which has been properly filed.

(4) Any subsequent filing shall be approved or disapproved by the board within ten (10) days from the date of filing, provided, however, that in the event the board fails to approve or disapprove such information within ten (10) days, the person filing same may publish or cause to be published or distributed all information which has been properly filed.

(5) The provisions of subsections (3) and (4) to the contrary notwithstanding, the board may at any time for good and sufficient cause shown after reasonable notice and hearing, enter an order of disapproval of information or advertising filed.

(6) Upon the occasion of all initial filings in proper form as required by the board, the board shall promptly place the information and all supporting data in its files and assign an identifying designation by number, letter or other suitable means, to said file. The board shall promptly inform the person filing that the information is properly filed, and the identifying designation assigned. The forty-five (45) day period provided in subsection (3) shall commence to run from the date of filing with the board.

#### Section 15. *Investigations.*—

(1) The board may, at intermittent periods, make such investigations and examinations of any registrant or other person as the board deems necessary to determine compliance with this act. For such purposes, it may examine the books, accounts, records and other documents or matters of any registrant. It shall have power to compel the production of all relevant books, records and other documents and materials relative to an examination or investigation. An examination or production of the above referred to books, accounts, records, documents or matters of the registrant shall not include any portions of said books, accounts, records, documents or matters containing a listing of prospective customers or a listing of methods of sale. Such investigations and examinations shall not be made more often than once during a year unless the board has reason to believe the registrant is not complying with the provisions of this act.

(2) The registrant shall not be required to pay a per diem fee and expenses of an investigation unless the registrant is found, after notice and hearing, to have committed fraudulent practices, in which case such registrant shall be required to pay the reasonable cost of investigation and per diem.

#### Section 16. *Revocation and Suspension of Registration.*—

(1) A certificate of registration of a subdivider may be suspended for a period of not more than six months after notice and hearing and upon a finding of facts showing that the subdivider has:

(a) Violated any provision of this chapter.

(b) Directly, or through an agent or employee, knowingly engaged in any false, deceptive or misleading advertising, promotion, or sales method, for the purpose of selling, leasing or obtaining prospects for purchase or lease of subdivided lands.

(c) Made any substantial change in the plan of sale and development of subdivided lands or a subdivision, subsequent to the initial filing with respect to the same under the provisions of this chapter, unless prior written approval of the board is obtained.

(d) Sold or leased any subdivided lands by way of installment land sales contract for which no initial filing has been made under the provisions of this act.

(e) Violated any lawful order, rule or regulation made, issued, adopted or promulgated by the board.

(2) The registration of a subdivider may be revoked after notice and hearing and upon a finding of facts showing that the subdivider has:

(a) Persisted in the doing of any act for which registration could be suspended.

(b) Been convicted in any court for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions.

(c) Disposed of, concealed, or diverted any funds or assets of any business or company so as to defeat the rights of purchasers under installment land sales contracts.

(d) Failed to faithfully keep and perform any stipulation or agreement made, or entered into with the board as inducement to grant any registration, reinstate any registration, or approve any plan of sale or development, or approve any particular advertising or promotional material, or sales method.

(e) That the registration certificate, or any other order, ruling, or approval of the board has been obtained by the registrant by means of fraud, misrepresentation or concealment.

(3) The registration of a salesman shall be deemed automatically suspended or revoked during the period when the registration of the subdivider is suspended or revoked and during any period when said salesman's registration as a real estate broker or salesman is suspended or revoked by the Florida real estate commission.

(4) The board shall adopt rules of procedure for conducting hearings required to be held under the provisions of this chapter to accord with the requirements of due process of law and the provisions of chapter 120, Florida Statutes.

**Section 17. *Injunction and receivership.*—**

(1) For the purpose of enforcing this act or any lawful rule, regulation, notice or order adopted by the board, the board may file an application for injunction in its own name, or proceedings by mandamus, in the name of the state, on its own relation, and by its counsel, alleging the facts and praying for an injunction or writ of mandamus against such person, restraining the person from further selling subdivided lands by installment land contracts, or using nonapproved or disapproved advertising, or acting as a registrant until such time as the proper certificates of registration shall have been granted, or restraining the person from disobeying, or commanding the person to obey such law, order, rule or regulation, as is necessary for compliance with this chapter.

(2) Upon a showing that the continued sale of subdivided lands by means of an installment land sales contract, or other acts will prevent the subdivider from delivering the kind and quality of title or improvement contracted for, the court may appoint a receiver to manage the affairs of the subdivider for such period of time as may be necessary and proper, or the court may grant other appropriate relief.

**Section 18. *Conspiracy to publish.*—**

(1) It is unlawful to aid another in the violation of the provisions of this chapter or to conspire with one or more other persons to violate the provisions hereof, and any persons convicted of so aiding or conspiring shall be subject to the same punishment as one committing this act.

(2) No person publishing or causing to be published information in violation of the provisions of this law, nor his accessory, employee or agent may for the purposes of this law be deemed to be the agent of a person who pays or delivers anything of value toward the purchase or acquisition of an interest in the title to real estate in reliance upon such publication.

(3) The criminal and civil provisions of this law shall not apply to a newspaper, printer, radio broadcaster, telecaster or others having no interest in the real estate involved, who only furnish the media for publication of the information prohibited by the provisions of this law.

**Section 19. *Civil remedy.*—**Any person who in reliance upon any false or misleading information or information which does not make a full and fair disclosure published in violation of this charter pays anything of value toward the purchase of or acquiring an interest in the title to real estate shall be entitled in an equity proceeding to rescind the contract in accordance with equity principles or an action at law to recover from the person to whom such payment was made, damages for his loss.

**Section 20. *Subdivision of parties.*—**On the effective date of this law in any civil action pending in the courts of this state in which the Florida real estate commission is a party pursuant to the provisions of any one or all of the sections of the Florida Statutes identified in section 22 of this law, the board shall be, upon motion, substituted as a party in lieu of the Florida real estate commission.

**Section 21. *Penalties.*—**A violation of this act shall be a misdemeanor and any person upon conviction therefor shall be punished by a fine not exceeding five thousand dollars (\$5,000.00) or by imprisonment not exceeding six (6) months, or both.

Section 22. *Repeater.*—Sections 475.42(1) (e), 475.50, 475.51, 475.52, 475.521, 475.53, 475.54, 475.55, Florida Statutes, are repealed.

Section 23. *Severability.*—The provisions of this chapter shall be severable and if any phrase, clause, sentence or provision of this law is declared contrary to the constitution of Florida or the United States, the law shall remain in full force and effect as to all severable matters.

Section 24. This act shall take effect September 1, 1963.

Approved by the Governor May 21, 1963.

Filed in Office Secretary of State May 21, 1963.

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## CHAPTER 63-461

### HOUSE BILL NO. 954

AN ACT relating to and establishing a state commission on aging; providing for the appointment of a director; prescribing the powers and duties of the commission and its director; authorizing the acceptance of grants and gifts.

*Be it Enacted by the Legislature of the State of Florida:*

Section 1. There is hereby created the Florida commission on aging hereafter called the commission. The commission shall consist of nineteen (19) members as follows: Six (6) public members, who shall be the state health officer, the state public welfare director, the head of the state hospitals, the superintendent of public instruction, the director of the state development commission and the director of the state industrial commission. One (1) member shall be an officer of the state association of county commissioners. Twelve (12) members, hereafter called citizen members, shall be citizens of the state who have an interest in and knowledge of the problems of the aging. The twelve (12) citizen members shall be distributed geographically so that one (1) member shall reside in each of the twelve (12) congressional districts of the state. In making appointments to the commission the governor shall give consideration to mature citizens who are currently providing leadership in senior citizen programs in the state and give consideration also to the diverse problems of aging by appointing people from a number of fields such as medicine, nursing, recreation, housing, education, social welfare, law, and business.

Section 2. With the exception of the public members, all members of the commission shall be appointed by the governor. The member who must be an officer of the state association of county commissioners shall be appointed to a four (4) year term or to a term which terminates simultaneously with the termination of his status as an officer of the state association of county commissioners. Thereafter as the term of the officer of the state association of county commissioners expires, each new appointment of this member shall be made on the same basis. Upon the establishment of the commission the term of the citizen members initially appointed shall be one, (1) two, (2) three, (3) and four (4) years as follows: Three (3) shall be appointed to a term of one (1) year, three (3) to a term of two (2) years, three (3) to a term of three (3) years, and three (3) to a term of four (4) years. Thereafter as a term expires each new appointment shall be for a four (4) year term or in the case of a vacancy until the expiration of the respective term. All terms of citizen members shall expire on June 30, but they shall continue in office until their successors are appointed. No citizen member may serve more than two (2) successive terms.

The governor may terminate the appointment of any member of the commission for good and just cause and the reason for the termination of each appointment shall be communicated to each member of the commission.

Section 3. A majority of the members of the commission shall constitute a quorum for the transaction of business. The commission shall elect a chairman, a vice-chairman and such other officers as it deems necessary. The commission shall have at least one (1) meeting in each quarter of the year, and more often if necessary on call of the chairman.

Section 4. Citizen members shall serve without compensation, but shall be reimbursed for expenses incurred in work of the commission at the prevailing state rates for travel and per diem.

Section 5. The commission shall appoint a director who will act as chief administrative officer of the commission and who shall serve at the pleasure of the



commission. He shall be a person who has demonstrated leadership qualities and an interest in and a knowledge of problems of aging and of older people. The director's annual salary shall be fixed by the legislature at a rate comparable to heads of state agencies. The director shall also be reimbursed for travel and other expenses incurred in the performance of his official duties at the prevailing state rates for travel and per diem.

Section 6. The director shall appoint such other personnel and consultants as the commission deems to be necessary for the efficient performance of the duties prescribed by this act, and fix the compensation therefor in accordance with established state budgetary procedures.

Section 7. The commission shall be the designated state agency to handle all programs of the federal government relating to the aging requiring actions within the state which are not the specific responsibility of another state agency under the provisions of federal or state law. Authority is hereby conferred on the commission to accept and use any funds in accordance with established state budgetary procedures which might become available pursuant to the purposes set out herein.

Section. 8. The commission shall create whatever advisory committees it deems necessary in such fields as community services, education, recreation, employment, financial security, health, and housing, and may use its funds to defray the expenses of such advisory committees and of members. The commission where feasible shall designate a commission member of special competence in a field as chairman of any advisory committee it may create in that field. Advisory committees shall report to the commission in regard to their activities and findings.

Section 9. The commission, through its director, shall cooperate and produce action to carry out the following purposes:

(1) Initiate requests for the investigation of problems and potentials of the aging people of this state, encourage research programs, and initiate pilot projects to demonstrate new services.

(2) Provide consulting service to local communities, including information on effective programs elsewhere in the state or nation for meeting the needs of the aging population; publish and disseminate information for the use of state, county, municipal and local officials concerned about the needs and welfare of the aging.

(3) Cooperate with, encourage and assist local agencies, both public and voluntary, which are concerned with the problems of the aging people of this state.

(4) Cooperate with officials and agencies of the United States and of this state; maintain a continuing review of their programs and make recommendations for coordinated program development.

(5) Encourage the cooperation of voluntary agencies in dealing with problems of the aging and offer assistance to voluntary groups such as churches, unions and fraternal organizations in the fulfillment of their responsibility for the aging within the spirit of this act.

(6) Make a report to the governor biennially, before January 3 of that year in which the state legislature regularly convenes, concerning the work of the commission for the preceeding biennium. The report shall deal with the present and future needs of the aging people of this state with respect to employment, retirement, income maintenance, housing and living arrangements, health, medical care and rehabilitation, education, recreation, personal adjustment, and such other matters as in its judgment are pertinent to the subject.

(7) Make recommendations in conjunction with its biennial report, for legislation dealing with the problems of the aging people of this state.

(8) Recommend qualified citizens to the governor for appointment to the commission.

Section 10. The commission may receive on its own behalf or on behalf of the state any grant or gift and accept the same.

Section 11. This act shall take effect July 1, 1963.

Approved by the Governor June 17, 1963.

Filed in Office Secretary of State June 17, 1963.

FLORIDA COMMISSION ON AGING  
TALLAHASSEE, FLA.

(Created by the 1963 Legislature)

## WHY IT WAS ESTABLISHED

More than a decade ago, some Americans began to realize that because of basic changes in our dynamic society the needs, problems and unfulfilled potentials of older Americans had become an important national challenge and opportunity. At its annual meeting in 1954, the National Governors' Conference requested the Council of State Governments to conduct a study to determine how government at all levels could cooperate in dealing constructively with the problems of older people.

The first question that confronted this study group was why should older persons now be considered a problem when they were not so regarded 70 years ago. The basic reason was found to be in the great economic and social changes that had taken place in the United States since 1890. These changes were largely the result of the shift from a rural, agricultural society to an urban, industrial society. In this transition, the role of the majority of men changed from that of self-employed persons to employees; compulsory retirement in industry superseded gradual retirement on the farm; for many, the economic independence which generally prevailed in the three-generation household gave way to dependence upon employers and government. Having worked in increasing numbers in their younger years, many women now share men's retirement problems. Increased lifespan has been an important factor. In 1900, the average remaining years in retirement for men at age 60 was 2.8. Now of all persons in the labor force attaining 65 years, men may expect to live an average of 9 years and women 11 years after they retire.

After a comprehensive study of the magnitude and nature of the social and economic factors involved, the Council of State Governments said:

"Finally, the State governments, for most aspects of the total problem, are in the best position to coordinate the varied activities of the other public and private agencies engaged in services for the aging."

The Florida Council on Aging, a nonprofit organization, incorporated in 1955, has offered a common meeting ground for everyone interested in the study of the aged and aging in Florida. Since 1956, it has cosponsored with the University of Florida the annual Southern Conference on Gerontology. It played an important role in the Governor's Conference on Aging in Florida in 1958. Though lacking legislative authority and financial resources, it has rendered signal service to the State by sustaining interest in the needs and desires of older people through the years.

In 1958, in response to public desire for action, the Congress of the United States enacted the White House Conference on Aging Act. In it the Congress voiced its concern, stated its basic views on the problem, and spelled out a course of action to be taken by the Federal Government and the States.

In anticipation of the White House Conference on Aging, the 1959 Florida Legislature authorized a nine-member citizens advisory committee to the Governor on the needs and problems of the aged. The committee, duly appointed, was also asked to establish basic policies for Florida's participation therein.

The White House Conference on Aging, held in Washington, January 9-12, 1961, was attended by 2,500 delegates from 53 States and territories. Representatives of 300 national voluntary organizations participated. The objectives of these delegates, following nearly 2 years study by thousands of professional and lay persons at State and community levels, were (a) to define the circumstances, needs, and opportunities of older Americans, and (b) to recommend actions by governmental and private groups that would enable all our people to achieve maximum satisfaction in their added years.

The following quotation from the policy statement and recommendations of the White House Conference on Aging describes the need for State commissions on aging.

## "NEED

"The States are heavily involved in programs affecting older persons. Major services and benefits are provided by various State agencies and private organizations. In this situation problems of coordination, communication, and conflict inevitably arise. There is a real need, therefore, for an overall view and approach.

"The older persons with whom the States are concerned are not simply those who are indigent, nor the small proportion who live in State-operated or State-supervised institutions. The problems that come with age sooner or later confront most older people, touch every family, and relate to every aspect of life—income, health, rehabilitation, housing, employment, recreation—all of which are interrelated. Existing State activities affecting the older person, however, are organized primarily on a program rather than a clientele basis. This may result in omissions, lack of focus, and lack of proper emphasis on the needs of older individuals. Those who seek help or information often do not know where to turn."

## RECOMMENDATION

In each State there should be established a permanent unit (office, commission, or agency) on aging, to provide statewide leadership in programs for the aging.

Since this recommendation was made, 38 States have created permanent units on aging either by legislative action (28) or executive order (10).

Following the White House Conference on Aging, Gov. Farris Bryant named a 15-member advisory committee on the aged which included an administrative assistant. After months of study, this advisory committee, as did its predecessor, recommended creating a Florida Commission on Aging. In making this recommendation a part of his legislative program, Gov. Farris Bryant, in his message to the 1963 legislature, said:

"The committee which I appointed to study the problems of the aging in Florida, in conjunction with parallel Federal studies, has recommended that a permanent committee on aging be established. \* \* \* The problems that arise from large numbers of aged people many of whom, in contrast to social patterns of a few decades ago, are uprooted from families and familiar interests, have received relatively little attention. I recommend to you that a committee on aging, constituted as your study may indicate, be established, and that some appropriation for staffing be made so that definite studies for your future guidance and assistance to local governments working in this area of concern can be accomplished."

## ITS STRUCTURE

The Florida Commission on Aging is comprised of 6 public members: to wit, State Health officer; director, State welfare department; director, Florida Development Commission; director, Florida Industrial Commission; superintendent of public instruction; director, division of mental health; an officer of the State association of county commissioners; and 12 citizen members—one from each congressional district.

This composition was designed to bring together people with knowledge of and interest in the problems of older people. To insure continuity of competency and purpose three citizen members were initially appointed for 1 year; three for 2 years; three for 3 years; three for 4 years. A citizen member may not serve more than two successive terms. The commission is empowered to appoint such advisory committees as it deems necessary in such fields as community service, education, recreation, employment, financial security, health, and housing. It may also accept grants of gifts on its own behalf or on behalf of this State, and use such funds in accordance with established State budgetary procedures which might become available pursuant to the purposes set out herein.

## ITS PURPOSE

The purposes of the Florida Commission on Aging are quoted from section 9, chapter 63-461, Florida Statutes:

"(1) Initiate requests for the investigation of problems and potentials of the aging people of this State, encourage research programs, and initiate pilot projects to demonstrate new services.

"(2) Provide consulting service to local communities, including information on effective programs elsewhere in the State or Nation for meeting the needs of the aging population; publish and disseminate information for the use of State, county municipal, and local officials concerned about the needs and welfare of the aging.

"(3) Cooperate with, encourage and assist local agencies, both public and voluntary, which are concerned with the problems of the aging people of this State.

"(4) Cooperate with officials and agencies of the United States and of this State; maintain a continuing review of their programs and make recommendations for coordinated program development.

"(5) Encourage the cooperation of voluntary agencies in dealing with problems of the aging and offer assistance to voluntary groups such as churches, unions, and fraternal organizations in the fulfillment of their responsibility for the aging within the spirit of this act.

"(6) Make a report to the Governor biennially, before January 3 of that year in which the State legislature regularly convenes, concerning the work of the commission for the preceding biennium. The report shall deal with the present and future needs of the aging people of this State with respect to employment, retirement, income maintenance, housing and living arrangements, health, medical care and rehabilitation, education, recreation, personal adjustment and such other matters as in its judgment are pertinent to the subject.

"(7) Make recommendations in conjunction with it biennial report, for legislation dealing with the problems of the aging people of this State.

"(8) Recommend qualified citizens to the Governor for appointment to the commission."

Aging is a concern of all of us. Its problems confront us, as individuals, whether we are old or not. The aim of this commission is to coordinate the efforts of governmental and nongovernmental agencies with regard to aging and to recommend constructive measures to improve the lot of older people.

#### Director J. M. BUCK, Tallahassee

##### CITIZEN MEMBERS

Chairman CARTER C. OSTERBIND,  
Gainesville

Vice Chairman SIDNEY ENTMAN,  
Jacksonville

BERT V. DANNHEISSER, JR., Pensacola

BALLARD R. DONNELL, West Palm Beach

MRS. CHESTER R. FERGUSON,  
Tampa

WALTER KEHOE, Tallahassee

GEORGE W. LUBKE, JR., Daytona Beach

JACK MONAHAN, JR., Orlando

DAVID R. MOSHER, St. Petersburg

MICHAEL SOSSIN, Miami Beach

REV. BEN SCHUMACHER, Miami

MRS. HENRY L. SMITH, Winter Haven

FLOYD WOODS, Lakeland

##### PUBLIC MEMBERS

THOMAS D. BAILEY, Tallahassee

A. WORLEY BROWN, Tallahassee

FRANK CRAFT, Jacksonville

WENDELL JARRARD, Tallahassee

W. D. ROGERS, M.D., Chattahoochee

WILSON SOWDER, M.D., Jacksonville

## RULES OF FLORIDA INSTALLMENT LAND SALES BOARD

### CHAPTER 188-1 GENERAL ADMINISTRATION

- 188-1.01 Policy.
- 188-1.02 Executive Officers.
- 188-1.03 Chairman.
- 188-1.04 Monthly Meetings.
- 188-1.05 Special or Emergency Meetings.
- 188-1.06 Quorum.
- 188-1.07 Disqualification of Board Members.
- 188-1.08 Office of the Executive Director.
- 188-1.09 Legal Department.
- 188-1.10 Minutes.
- 188-1.11 Orders.
- 188-1.12 Register of Practitioners.
- 188-1.13 Employees of the Board, Gifts, and Emoluments.
- 188-1.14 Office Hours.
- 188-1.15 Hardship Waiver.

## CHAPTER 188-1 GENERAL ADMINISTRATION

188-1.01 *Policy.*—It is recognized that the purpose of this Board in implementing the provisions of the Florida Installment Land Sales Act is to encourage the healthy economic growth of Florida with particular emphasis on the development and sale of real estate and in so doing provide reasonable protection for those who wish to live and invest in Florida. To this end every effort shall be made to promote the highest ethical standards in the Florida land development industry; to make available to purchasers full and fair disclosure concerning Florida subdivisions; and to relentlessly pursue, expose, and prosecute those who violate the law.

188-1.02 *Executive Offices.*—The Executive Offices of the Florida Installment Land Sales Board shall be at 2942 West Columbus Drive, Tampa, Florida. All official communications to the Board shall be addressed to its principal office in Tampa, P.O. Box 4448, Zip Code 33607.

188-1.03 *Chairman.*—The Chairman is the Chief Administrative Officer of the Board and shall preside at all meetings, hearings, and conferences. In the absence of the Chairman, the Vice Chairman shall preside. The Chairman and Vice Chairman shall serve a term of one year and may succeed themselves.

188-1.04 *Monthly Meetings.*—The Board shall meet monthly at a place to be designated by the Chairman. The meetings shall be held the fourth Friday of each month or within 5 days of such fourth Friday, as may be designated by the Chairman by seven days' written notice to the Board members.

188-1.05 *Special or Emergency Meetings.*—The Board shall meet at such other times and places as may be required for the transaction of the Board's business upon three (3) days' notice to the members by the Chairman; provided, however, that upon the written request of three members of the Board other than the Chairman, and after five (5) days' written notice thereof to all members, meetings may be held as therein provided. Provided, further, that emergency meetings may be held at any time without notice upon the request of all members of the Board.

188-1.06 *Quorum.*—Three members of the Board shall constitute a quorum. A majority vote of the full Board is essential to Board action in all matters involving revocation, suspension, or adoption, revision, or revocation of rules. A majority of the quorum present shall govern in all other matters.

188-1.07 *Disqualification of Board Members.*—Any member of the Board who appears of record as counsel for or as an entity regulated by the Board who is pecuniarily interested in any cause or matter coming before the Board, shall be disqualified to act therein.

188-1.08 *Office of the Executive Director.*—The Executive Director is responsible for supervising and coordinating the activities of the Board. He shall assist in the formulation of policy. He may issue temporary orders approving or disapproving subsequent filings of advertising. He may grant interim operative authority to a subdivider and issue salesmen's permits. He may approve for payment all travel requisitions and purchases up to \$250.00. Any purchase in excess of \$250.00 much have the approval of the Chairman. The Executive Director shall perform such other functions as the Board members may from time to time require or delegate.

188-1.09 *Legal Department.*—It is the duty of the Legal Department to represent the Board in all legal proceedings in the various State and Federal Courts and State and Federal Agencies; to advise the Board on all legal matters; to attend meetings of the Board and participate in public hearings and conferences; to make reports and recommendations to the Board; to insure that all Orders are prepared in conformity with Board action; to prepare and assist in preparation of proposed legislative action; to protect the general public's interest; and to perform such other functions from time to time as the Board may direct or delegate.

188-1.10 *Minutes.*—All official actions of the Board shall be recorded in permanent minute books and retained by the Executive Director of the Board. These minutes are open to public inspection during regular office hours at the Executive Headquarters of the Board.

188-1.11 *Orders.*—All official orders pertaining to matters other than the approval and disapproval of advertising shall be recorded in permanent order books by the Executive Director. These books shall be open to public inspection during regular office hours at the Executive Headquarters of the Board.

188-1.12 *Register of Practitioners.*—A register shall be maintained by the Executive Director containing the names of all attorneys practicing before the

Board. By the use of this register, the Executive Director may disseminate any information of general interest to practitioners before the Board.

188-1.13 *Employees of the Board, Gifts and Emoluments.*—(1) The Board shall employ and discharge such employees as it shall deem necessary and shall outline their duties and fix their compensation.

(2) During his tenure of service with the Board, no employee shall receive from any registrant or other person directly or indirectly involved in any proceeding before the Board, any gift, emolument, or other gratuity; nor shall any registrant or other person directly or indirectly involved in any proceeding before the Board offer any gift, emolument, or other gratuity to any employee.

188-1.14 *Office Hours.*—The offices of the Board shall be open Monday through Friday of each week from 8:00 A.M. until 5:00 P.M.

188-1.15 *Hardship Waiver.*—In event the application of any rule herein will work a hardship, the Board may, upon application, waive or suspend such rule, provided, however, the intent of the Installment Land Sales Act to provide full and fair disclosure, will not be abrogated.

#### CHAPTER 188-2 PRACTICE AND PROCEDURE

##### PART I PLEADINGS

- 188-2.01 General.
- 188-2.02 Initial Pleadings.
- 188-2.03 Responsive Pleadings.
- 188-2.04 Service of Pleadings.
- 188-2.05 Contents.
- 188-2.06 Form.
- 188-2.07 Signature and Verification.
- 188-2.08 Construction of Pleadings.
- 188-2.09 Amendments.

##### PART II PARTIES

- 188-2.20 Parties.
- 188-2.21 Staff Personnel.

##### PART III PROCEEDINGS

- 188-2.30 Nature of Proceedings.
- 188-2.31 Formal Proceedings.
- 188-2.32 Informal Proceedings.
- 188-2.33 Informal Conference.
- 188-2.34 Subsequent Formal Proceeding.
- 188-2.35 Notice of Hearing.
- 188-2.36 Postponements.
- 188-2.37 Witness Subpoenas.
- 188-2.38 Witness Fees.
- 188-2.39 Procedure and Hearings.

#### CHAPTER 188-2 PRACTICE AND PROCEDURE

##### PART I PLEADINGS

188-2.01 *General.*—The conduct of all hearings before the Florida Installment Land Sales Board shall be in accordance with the requirements set out in Chapter 120, Florida Statutes, Part II.

188-2.02 *Initial Pleadings.*—A complaint is the appropriate initial pleading wherein an interested party complains of acts or things done or omitted to be done in violation of some law administered by the Board, or in violation of some rule, regulation or order issued by the Board.

(2) The Board may institute a proceeding on its own motion by an order directing a respondent or defendant to show cause on or before a specified date why a specific action should not be taken.

(3) A petition is the appropriate initial pleading wherein a party seeks extraordinary relief.

(4) Initial pleadings shall set forth the grounds therefor with such clarity as to fully inform of the issue involved and the action required. Initial pleadings shall be signed and verified.

188-2.03 *Responsive Pleadings.*—If an initial pleading requires a response, the response shall be styled as an answer and shall be mailed to all parties of record and filed with the Board within 20 days after the initial pleading is mailed. Answers shall conform to the requirements governing pleadings contained herein.

188-2.04 *Service of Pleadings.*—All pleadings may be served by U.S. mail and the day of service shall be construed as 3 days after the date of the post

mark. The original copy of the pleading shall be filed with the Board and copies shall be served on all parties of record.

**188-2.05 Contents.**—All formal pleadings shall show the correct name and post office address of each party by or for whom the particular pleading is filed, and the name and post office address of the attorney, if any. Pleadings shall also contain a full and clear statement of facts that the party or parties are prepared to prove by competent evidence at the hearing, the proof of which will warrant the relief sought and a statement of the specific relief sought and the legal basis for such relief.

**188-2.06 Form.**—All pleadings and exhibits in formal proceedings shall be printed, typewritten, or otherwise duplicated in legible form on white paper. Unless printed, the impression shall be on one side of the paper, only, and the lines shall be double spaced, except quotations of two or more lines, which shall be single-spaced and indented. Standard legal size paper or standard letter size paper may be used, however, a left margin of not less than one and one-half inches, and a top margin of at least two inches must be provided.

**188-2.07 Signature and Verification.**—Pleadings and amendments thereto shall be signed by one of the parties, or an official thereof if the party is a corporation or association, or by the pleader's attorney or practitioner who is acquainted with the facts. Pleadings filed by the Board will be signed by the Executive Director or Board Counsel. Pleadings need not be verified except as may be required by a particular statute, rule or order of the Board.

**188-2.08.—Construction of Pleadings.**—The Board will not permit substantial rights of the parties to be destroyed by insufficient pleadings. However, reasonably strict compliance with these rules will be expected in order that time may be conserved, justice more expeditiously rendered, and the public interest more adequately protected.

**188-2.09 Amendments.**—Any pleading may be amended or corrected or any omission supplied prior to the service of notice of hearing thereon or prior to service of the responsive pleading. Thereafter amendments will be granted only by order of the Board after notice to all parties of record. Any amendment which does not broaden the issue may be made at a hearing by agreement of parties or at an uncontested hearing, at the discretion of the Board or duly designated hearing officer.

## PART II PARTIES

**188-2.20 Parties.**—(1) Parties to proceedings before the Board are designated as applicants, petitioners, complainants, defendants, respondents, or protestants, according to the nature of the proceeding and the relationship of the respective parties.

(2) For the purposes of these regulations, the parties are defined as follows:

(a) Applicants and Petitioners: Persons filing formal written requests with the Board for some right, privilege, or authority within the jurisdiction of the Board to grant are designated as applicants or petitioners.

(b) Complainants: Persons who complain of acts or things done or omitted to be done in violation of some law administered by the Board, or in violation of some rule, regulation, or order issued by the Board, are designated as complainants.

(c) Defendants: Persons against whom a complaint is filed are termed defendants.

(d) Respondents: Persons named in an order of investigation, rule to show cause, or complaint made by the Board upon its own motion, are termed respondents.

(e) Protestants: Persons who oppose the granting of an application or petition, in whole or in part, are designated as protestants.

**188-2.21 Staff Personnel.**—Staff personnel appear neither in support of, nor in opposition to, any party in any cause, but solely on behalf of the general public interest. Their primary duty is to reasonably insure that all facts touching upon the general public interests are clearly brought before the Board. They may testify and offer exhibits, and shall be subject to cross-examination to the same extent as any party.

## PART III PROCEEDINGS

**188-2.30 Nature of Proceedings.**—The Board recognizes both formal and informal proceedings. Matters which require the taking of testimony, a formal hearing, and a formal order, are considered as formal proceedings and must be instituted and processed in conformity with applicable rules. Whenever prac-

licable, informal proceedings are to be used for speedy, amicable adjustment of complaints or controversies which do not necessarily require a formal hearing.

188-2.31 *Formal Proceedings*.—Pleadings in formal proceedings include applications, petitions, complaints, answers, protests, orders to show cause, and other formal written statements of facts or law on which the party making the same relies for appropriate action or relief by the Board.

188-2.32 *Informal Proceedings*.—Informal proceedings may be commenced by letter, telegram, or other instrument in writing, setting forth the name and post office address of the person instituting the proceeding; the name and post office address of the person or persons against whom the proceeding is instituted; a concise statement of all the facts necessary to understanding of the situation presented; and a statement of the relief desired. Matters so presented will be taken up by the Board with the parties affected, by correspondence or otherwise, in an effort to bring about an adjustment of the subject matter of said proceeding without a formal order or hearing.

188-2.33 *Informal Conference*.—If the Board deems it advisable, in the speedy determination of an informal proceeding, it will arrange an informal conference between the parties, with some Board or Staff member participating, and attempt to resolve the controversy in an amicable manner without transferring it to the formal docket.

188-2.34 *Subsequent Formal Proceeding*.—The filing of an informal proceeding is without prejudice to the right thereafter to institute a formal proceeding covering the same subject matter. Furthermore, the Board may, in its discretion, if convinced that the matter cannot be settled amicably, convert the same into a formal proceeding and process the cause in due course to final disposition by formal order.

188-2.35 *Notice of Hearing*.—Parties to a proceeding before the Board shall receive reasonable notice, in writing, of the time, place, and nature of any hearing. Notices of such hearings shall be given by the Executive Director and may be served by U.S. mail.

188-2.36 *Postponements*.—For cause shown, postponements, continuances, and extensions of time will be granted or denied at the discretion of the Board or the Executive Director. Except in cases of extreme emergency, requests for postponements must be made at least five (5) days prior to the date noticed for the hearing.

188-2.37 *Witness Subpoenas*.—Subpoenas requiring the attendance of witnesses from any place in the state, at any designated place of hearing before the Board or the Board's duly appointed examiner, for the purposes of taking the testimony of such witness, will be issued upon the written application of any party of record in a formal proceeding. The application for such subpoena shall state the name and address of the witness for whom subpoena is to be issued, the party on whose behalf the witness will be expected to testify, and the time and place for the witness to appear. The Board, on its own motion, may issue subpoenas requiring witnesses to attend and give testimony in matters pending before the Board. Subpoenas may be issued by any Board member, or the Board's Executive Director. Subpoenas will be issued on forms to be supplied by the Board.

188-2.38 *Witness Fees*.—Witness fees necessary and incident to a hearing before the Board shall be paid by the party at whose instance the witness is summoned. No witness fees will be allowed except on subpoena and must be tendered, if demanded, at the time of service of the subpoena. In all cases the fees allowed will be the same as those allowed by the circuit courts of the state.

188-2.39 *Procedure and Hearings*.—(1) Except as otherwise provided in a particular case, hearings shall be conducted by and before the Board as follows:

(a) The presiding officer shall call the hearing to order.

(b) The Board Counsel shall give the title of the proceeding to be heard, its docket number, and a brief statement of the issues involved and the nature and purpose of the hearing.

(c) The presiding officer shall take appearances of the parties or their representatives.

(d) The presiding officer shall call for any motions or any other matters that should be disposed of prior to the taking of testimony.

(e) The presiding officer shall call for the presentation of evidence. In presenting evidence, the initiating party will make its presentation first, to be followed by the presentation of the responding party and any rebuttal on behalf of the initiating party. Opening and closing statements may be made.



## CHAPTER 188-3 FEES AND COSTS

188-3.01 Fees.

188-3.02 Costs of Investigation of Out-of-State Subdivisions.

## CHAPTER 188-3 FEES AND COSTS

188-3.01 *Fees.*—(1) The fee for registration as a subdivider shall be \$100.00. The fee for renewal of a subdivider's license shall be \$100.00.

(2) The fee for registration as a salesman shall be \$5.00. The fee for renewal of a salesman's license shall be \$5.00.

(3) When a person submits his application for registration as a subdivider, if the Board finds that such applicant had been previously engaged in subdividing activities which would have necessitated registration, it will not issue a certificate of registration until the applicant remits a subdivider's fee for the period in which he failed to register.

(4) The initial filing fee for each subdivision shall be \$150.00 for subdivisions comprising 100 lots or less. Subdivisions of more than 100 lots, parcels, or units of land shall pay a fee of \$150,000, plus \$1.00 for each lot, parcel, or unit of land over 100 up to and including 1,000 lots, parcels, or units and 50¢ for each lot, parcel, or unit in excess of 1,000.

188-3.02 *Costs of Investigation and out-of-State Subdivisions.*—The actual expenses incurred by Board personnel while investigating subdivisions located out of the State of Florida shall be borne by the owner of the subdivision being investigated. Such expenses shall not exceed the per diem and mileage provisions as provided by Florida Statutes.

## CHAPTER 188-4 REGISTRATION OF SUBDIVIDERS AND SALESMEN

188-4.01 Application for Certificate of Registration or Salesman's Permit.

188-4.02 Renewal of Certificate or Permit.

188-4.03 Categories of Salesmen.

188-4.04 Transfer of Salesman's Permit.

## CHAPTER 188-4 REGISTRATION OF SUBDIVIDERS AND SALESMEN

188-4.01 *Application for Certificate of Registration or Salesman's Permit.*—

(1) All subdividers and salesmen falling under the regulation of the Florida Installment Land Sales Act shall register with the Board by filing an application on forms prescribed by the Board.

(2) All applications shall be fully completed, including all exhibits, or such application shall be returned to applicant.

(3) Applications for registration shall be accompanied by the requisite fee, as provided by the rules and regulations of the Board, payable to the Florida Installment Land Sales Board.

(4) It shall be the duty of the Board to screen each application for registration as a subdivider or salesman and, in so doing, shall make appropriate inquiry and investigation into the applicant's qualifications. If the Board determines that an applicant is not possessed of the requisite qualifications, or has made an incomplete or false statement, or when an investigation or inquiry reveals information bearing adversely on the applicant's qualifications, the Board shall notify such applicant that his application has not been approved. Said notices shall set forth the basis of disapproval.

(5) An applicant whose application has been denied may, upon proper notice, appear before the Board to petition for reconsideration. Said petition shall be filed with the Board within 15 days after notice of denial is mailed and shall fully set forth the grounds justifying reconsideration. Failure to timely petition for reconsideration shall be construed as a waiver of the right to appear before the Board.

188-4.02 *Renewal of Certificate or Permit.*—A subdivider's certificate of registration or a salesman's permit shall be renewed annually upon payment of the requisite fee and upon submitting to the Board a completed renewal application on forms prescribed by the Board. If after probable cause shown, the Board determines that the certificate or permit should not be renewed, it shall institute revocation or suspension proceedings.

188-4.03 *Categories of Salesmen.*—There are three classifications of salesmen:

(1) A salesman for a subdivider is registered as a direct employee of the subdivider and may sell in any of the subdivisions of the subdivider.

(2) A salesman-at-large is a registered real estate broker who is authorized to sell for more than one subdivider. Each salesman-at-large shall notify the Board

of the subdividers he represents and the subdivisions in which sales are made. The Board shall retain this information in its permanent files.

(3) A salesman for a salesman-at-large operates under the permit of a salesman-at-large and may sell subdivided lands for any subdivider that his principal represents.

**188-4.04 Transfer of Salesman's Permit.**—Any salesman who discontinues his employment with a subdivider or salesman-at-large shall surrender his permit to the Board. If a salesman shall enter the employ of another subdivider or salesman-at-large, he shall obtain a new permit. Such permits may be obtained by obtained by submitting to the Board an application for permit and paying the requisite salesman's fee.

#### CHAPTER 188-5 PROMOTIVE PUBLICATIONS

##### PART I PROCEDURE FOR FILING

- 188-5.01 Definitions
- 188-5.02 Filing
- 188-5.03 Supporting Data
- 188-5.04 Out-of-State Subdivisions
- 188-5.05 Subsequent Filing
- 188-5.06 Notice of Acceptance
- 188-5.07 Identifying Designations
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##### PART II APPROVAL OR DISAPPROVAL

- 188-5.20 Responsibility of the Board
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- 188-5.30 General
- 188-5.31 Administrative Intent
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- 188-5.34 Implied Representations
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#### CHAPTER 188-5 PROMOTIVE PUBLICATIONS

##### PART I PROCEDURE FOR FILING

**188-5.01 Definitions.**—The word advertising used herein shall refer to any advertising or promotional material as defined in Chapter 63-129, Laws of Florida 1963.

**188-5.02 Filing.**—The term filing, as used in the Installment Land Sales Act, is a general term that describes the advertising, the required supporting data, and the requisite fee submitted to the Board pursuant to the Land Sales Act. The terms INITIAL FILING and SUBSEQUENT FILING are limitations of the general term and must relate to particular lands. As related to particular lands, the term initial filing means the first filing with the Florida Installment Land Sales Board under Section 13 of the Act, of advertising to be published or disseminated for the purpose of offering the said lands for sale or to induce a person to acquire an interest therein. It will be presumed that all lands described in the questionnaire submitted with an initial filing are the lands for which the initial filing is made. It will be further presumed that the lands described are within a continuous boundary and will be immediately offered, under a common name, to the public pursuant to the advertising or promotional material then being filed in accordance with the sales plan described in the questionnaire. If it appears upon an initial filing, that the lands described in the questionnaire are not owned by one person or entity, a separate initial filing shall be required as to the lands owned separately; provided, however, that joint tenants, tenants in common, and cestui que trustents under a common trustee shall not be considered separate ownership. If it appears that the lands are not included in the continuous boundary, or are separate in such a manner that they cannot reasonably be considered as one parcel or tract, or the subdivision of one parcel or tract, a separate initial filing shall be required for each separate tract of subdivided lands. If it appears that the lands, though adjacent, adjoining and included in a continuous boundary, are to be offered under more than one name without a common subdivision name or more than one subdivision plan of sale, then each such subdivision or plan of sale shall be considered a separate filing and an initial filing shall be required as to each. The term, subsequent filing, as related to particular lands, means a filing of any advertising relating to lands for which an initial filing has been previously

made. If advertising intended to be filed as a subsequent filing relates to more than one parcel, tract or subdivision for which separate initial filings were required, separate subsequent filings as to each such parcel, tract or subdivision shall be required; provided, however, that when the lands for which the subsequent filing is intended comprise only one subdivision contained in a continuous boundary not owned by separate owners and offered under one name, only one subsequent filing shall be required and said subsequent filing shall be accepted as relating to all lands for which such initial filings have been made.

188-5.03 *Supporting Data*.—(1) An initial filing shall be accompanied by:

- (a) A vicinity map.
  - (b) A property report fully completed and executed, as provided by the rules and regulations of the Board.
  - (c) A completed questionnaire accompanied by all required documents, statements and exhibits, by the owner, developer, subdivider or sales agent of the subdivided lands; provided, however, any exhibit on file with the Board may be incorporated by reference with staff approval.
  - (d) Such other data as is necessary to affirmatively support representations contained in the advertising or promotional material.
- (2) The questionnaires required shall be upon forms furnished by the Florida Installment Land Sales Board and no other forms shall be acceptable. The vicinity map required shall be any regular map drawn to scale of the area where the lands are located. The lands on which a filing is made shall be accurately located on the vicinity map in relation to prominent features.
- (3) The initial filing shall be verified at the beginning of the bound filing in the following form:

#### AFFIDAVIT

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this day personally appeared before me, the undersigned authority, \_\_\_\_\_, who, being by me first duly cautioned and sworn, deposes and states:

THAT he is the person responsible for the preparation of the accompanying initial filing and that the initial filing questionnaire, required check list, and answers on the Property Report, along with all other answers and information submitted therein, including attached statements and exhibits, No. \_\_\_\_\_ through \_\_\_\_\_, are true and correct and that this Affidavit is made for the purpose of verifying the same under oath.

Sworn to and subscribed to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(4) The initial filing shall be bound and securely fastened at the top. It shall be indexed and assembled in the following order:

- (a) Index
- (b) Affidavit
- (c) Subdivision Questionnaire
- (d) Required Exhibit List
- (e) All other pertinent exhibits
- (f) Property Report
- (g) Advertising Material

Advertising material and plats or maps which are too bulky and not adaptable to binding may be submitted in a separate folder.

188-5.04 *Out-Of-State Subdivisions*.—Any subdivider selling or offering for sale in Florida, real property in a subdivision located outside the State of Florida, shall file all promotive publications pursuant to the provisions of Section 13 of the Act and in accordance with the rules and regulations as promulgated by the Board. Board personnel in making appropriate inquiry in investigation of out-of-state subdivisions shall utilize the information from other State Agencies in making a recommendation on the filing, shall request assistance from a corresponding or appropriate State Agency in the subject State, and shall send investigators to obtain necessary information only when necessary additional information is needed. The cost of the investigation of an out-of-state subdivision shall be borne by the subdivider.

188-5.05 *Subsequent Filing*.—A subsequent filing need not be accompanied by any supporting data, but before the same is accepted for filing the supporting data, previously filed shall be reviewed to determine that the advertising or promotional material relates only to the lands for which an initial filing has been made and that no additional supporting data is required to support the new material.

188-5.06 *Notice of Acceptance*.—All advertising, together with the required supporting data and the requisite fee, when received in the Board office shall be reviewed to determine that the same is in proper form for filing. If the same is found to be in proper form and accompanied by the proper fee, notice of the acceptance for filing shall be forwarded immediately to the person filing the advertising. The notice of acceptance shall not be construed as an approval of the advertising filed, and any publication or dissemination of the said material prior to the expiration of the statutory time limits or the receipt of an order of approval shall be considered a violation of the law. If the advertising and supporting data is not found to be in proper form or is not accompanied by the proper fee, the material shall be returned to the person filing the same with an explanation. If it appears more convenient, the advertising and supporting data may be held in the Board office and the person attempting to file the same shall be advised of the necessary steps to make the filing acceptable. If the necessary action to make the filing acceptable is not completed within 15 days, the advertising and supporting data may, at the discretion of the Executive Director, be returned to the person from whom it was received. The notice of acceptance shall contain an identification number and, upon ultimate approval of the material, this identifying designation shall be published on all advertising in legible and readable form.

188-5.07 *Identifying Designations*.—(1) When advertising is accepted for filing, it shall be assigned an identifying designation. All advertising filed in one filing shall be identified and designated in such a manner that the Board or the registrant may, through the identifying designation, refer to any specific piece of advertising in question. When advertising relates to more than one subdivision owned by different persons but being sold through one sales agent, an identifying designation shall be assigned such material but this designation shall not be construed to permit filings relating to separate subdivisions or portions of subdivisions without payment of the appropriate fee for each parcel, tract or subdivision to which it relates.

(2) The subdivider shall print on advertising material the identifying designation number given to that specific piece of material by the Board.

188-5.08 *Presumptions*.—It will be presumed that:

(1) All advertising filed for approval will be used immediately to offer for sale or to induce persons to acquire an interest in the title to all lands which are described in or referred to in the material or supporting data filed with the Board unless express limitation is made.

(2) All advertising published, disseminated or broadcast by or in behalf of an owner or entity owning more than one subdivision is being used to offer lands in all subdivisions owned by such owner or entity unless an express limitation is made by such owner or entity, to the Board.

(3) All advertising published or disseminated by or on behalf of a sales agent is being used to offer lands in all subdivisions for which said person is a sales agent unless an express limitation is made to the Board.

(4) Advertising pertaining to activities of or in a subdivision related to installment land sales such as material on home construction, home sales, motels, industrial park, etc., used or induced by a registrant is subject to Board approval when it pertains to the entire subdivision and can be used for the promotion of installment sales.

188-5.09 *Letter of Transmittal*.—Every ad submitted to the Board, either as part of an initial filing or a subsequent filing, shall be accompanied by a letter of transmittal which gives a brief, written description of each ad filed with the Board to assure that all future correspondence and orders concerning the ad will clearly identify the ad in question.

#### PART II APPROVAL OR DISAPPROVAL

188-5.20 *Responsibility of the Board*.—Advertising or promotional material by a nonregistrant in the sale of Florida real estate is not required to be approved by the Board. If it is brought to the attention of the Board that any such material is false or misleading, such fact will be brought to the attention of the proper authorities.

188-5.21 *Approval or Disapproval of Advertising.*—(1) When advertising is accepted for filing, the same, together with all supporting data and facts discovered upon investigation or inquiry, shall be examined by the designated personnel of the Board to determine whether the same is ready for final review by the Board. If additional information is needed before a determination can properly be entered by the Board, it shall be the Executive Director's duty to see that such information is obtained upon inquiry, or that any matter requiring investigation is referred for investigation.

(2) When a subsequent filing is submitted, the Executive Director may enter a notice of staff approval or disapproval, subject to ratification by the Board.

(3) When it appears to the Executive Director that a filing is ready for review by the Board, it shall be presented at any regular, special, or adjourned meeting of the Board.

(4) Upon presentation of a filing to the Board for a determination the Executive Director shall notify the appropriate person of the decision of the Board by promptly mailing to such person a copy of the order entered thereon.

(5) The disapproval of any subsequent filing by the Board shall constitute final action and any correction or amendment to a subsequent filing which has been disapproved by the Board shall be submitted in the form of a new subsequent filing accompanied by the payment of the requisite fee.

188-5.22 *Review of the Board.*—The Board shall review advertising and enter such orders as may appear appropriate by reason of staff recommendation, information appearing in said material, accompanying supporting data, or other facts discovered upon inquiry, complaint, or investigation. Said orders will either be orders of approval, orders of disapproval, cease-and-desist orders, revocation and suspension orders, or other orders which may be necessary to enforce the provisions of the Land Sales Act. No orders of revocation or suspension of a subdivider's certificate shall be issued unless notice has been given and an opportunity has been afforded to show cause why said order should not be entered.

188-5.23 *Reconsideration of Board Action.*—(1) Any person aggrieved by Board action, may submit a petition for reconsideration to the Board within 15 days after the rendition of its order.

(2) Said petition shall be in writing and specifically state in detail the grounds on which petitioner relies.

(3) If petitioner desires to present oral argument on his petition, it shall be affirmatively requested in writing at the time the petition is submitted to the Board, or oral argument will not be granted.

#### PART III STANDARDS FOR APPROVAL

188-5.30 *General.*—In reviewing the advertising submitted by a registrant under the Land Sales Act, the Board shall determine whether the submitted material makes a full and fair disclosure or is false and misleading within the intent and meaning of the law, by examining the form, language, and content of the material and supporting data and any other available information to ascertain whether the express and implied representations therein are true and make full and fair disclosure and whether the plan of development or sale promoted thereby has adequate safeguards and assurances to prospective purchasers as required by law. If it does not appear that the said representations are true and offer full and fair disclosure as to all lands to which the filing relates or if it appears that the plan of sale or development does not include adequate safeguards and assurances, no order of approval will be entered and the Board will enter such orders of disapproval or take such other action as may be necessary to discharge its duty.

188-5.31 *Administrative intent.*—No precise rules to determine that material is misleading, or that a plan of sale or development lacks adequate safeguards and assurances to prospective purchasers, can be made which will be applicable in all situations. Without any intent to limit its consideration on or determination to the general standards herein set forth and without any attempt to compel any particular form or method of advertising, promotion, development, or sale of subdivided lands, the following standards are adopted as a guide to persons preparing to file advertising material and to be used by Board personnel in discharging their duties.

188-5.32 *Standards.*—(1) The Board will not enter an Order of Approval and will consider advertising false and misleading and failing to make full and fair

disclosure within the intent and meaning of the Land Sales Act upon the violation of any of the following standards:

(a) All claims contained in advertising shall be accurate and provable.

(b) Advertising shall not misrepresent the facts or create misleading impressions.

(c) When a community is referred to, advertising shall state the location of the subdivided property in relation to its distance in road miles from the community.

(d) Advertising which uses such terms as "minutes away," "short distances," "only miles," and "near" and terms of similar import to indicate distance, are prohibited unless the actual distance in road miles is used in conjunction with such terms.

(e) When advertising refers to oil, gas, or mineral rights, an adequate disclosure must be made in each such advertisement making reference to such oil, gas, or mineral rights.

(f) Predictions of specific or immediate price or value increases of lots or parcels or units of advertised lands over which the subdivider does not have control, shall not be made.

(g) Statements in advertising concerning the future increase of prices by the subdivider shall be specific as to amount and as to the date of the announced increase. The date shall be in the reasonable future and the increased price shall be maintained for a reasonable length of time.

(h) The asterisk or any other reference symbol shall not be used as a means of contradicting or substantially changing any previously made statement or as a means of obscuring material facts.

(i) Subdivider shall not use names or trade styles which imply that they are nonprofit research organizations, public bureaus, groups, etc., when such is not the case. Advertising of such an organization shall be prohibited when the true nature of the plan of sale or ownership is misrepresented or concealed.

(j) Advertisement of improvements on or to the property which are not completed is prohibited unless it is stated in unmistakable terms that the improvements are merely proposed or under construction.

(k) Use of artists' sketches to portray proposed improvements or nonexistent scenes without an indication that such portrayal is an artists' sketch and that the improvements are proposed or the scenes do not exist, is prohibited. Artists' conceptions of existing improvements or scenes must be representative and state that such rendering is an artist's conception.

(l) Advertising shall disclose prominently if the property, or any portion of the property, is regularly or periodically flooded or substantially covered by standing water for extended periods of time during the year, unless adequate drainage is assured by bonding or other means acceptable to the Board.

(m) The advertising of land without available legal access to the purchaser and without disclosure of such fact shall be false and misleading.

(n) It is prohibited to use statements, photographs, or sketches portraying the use to which advertised land can be put unless the land can be put to such use without unreasonable cost.

(o) The use of statements, photographs, or sketches relating to facilities for recreation, sports, or other conveniences which are not presently in existence on the advertised lands is prohibited, unless it is clearly stated that such facilities are not on the land and the distance thereto in miles is given, or that such facilities are merely proposed.

(p) The unqualified use of statements as to the amount of taxes is prohibited. A statement of taxes on a stated date may be made, provided that the latest available figures are used.

(q) The use of statements, which though true, nevertheless lend themselves to false or misleading inferences of nonexistent facts is prohibited.

(r) Lots shall not be advertised as "free" if the prospective purchaser is required to give any consideration whatsoever, and lots shall not be advertised for "closing costs only" when the closing costs are substantially more than normal, or when an additional lot or lots must be purchased at a higher price.

(s) Advertising which makes reference to predevelopment sales at a lower price because the land has not yet been developed will be considered false and misleading unless there are plans of development, and a subdivision plat has been recorded, or reasonable assurance is available that such plan will be completed.

(t) Advertising which makes reference to "roads" and "streets" shall make affirmative disclosure as to the nature of such roads and street; i.e., paved, gravel, dirt, etc.

(u) To be described as improved or paved, roads and streets shall be constructed and surfaced according to county, city, or other acceptable authority specifications. If legal access is referred to in advertising, it shall be accompanied by phraseology to indicate whether the access is presently usable as a passage for automobiles.

(v) The existence of a road easement or a road right-of-way may not be advertised unless such easement or right-of-way has been dedicated to the public or to appropriate property owners and recorded in the public records of the county in which the property is located.

(w) The use of before and after pictures for comparative purposes is prohibited without an accurate, detailed, comparative analysis of such pictures.

(x) The use of reprints of published material will be approved only when the information contained in the reprint is representative, truthful, relevant and pertinent to the subdivision being offered.

(y) The comparison of land values is prohibited unless it is clear who is making the comparison and that the comparison is relevant and fair.

(z) Advertising shall not make reference to a public facility unless money has been budgeted for actual construction of such facility and is available to the public authority having the responsibility of construction, or an actual disclosure of the existing facts concerning a public facility is made.

(aa) Advertising may refer to public facilities under study, provided that it is fully disclosed that the facility is merely proposed and under study and provided that no reference is made to the location or route of the facility until such has been decided by the responsible public authority.

(bb) The unqualified term "development" or "community" may be used in advertising only to describe a subdivision, the plat of which has been recorded of record.

(cc) Advertising which refers to the purchase price of any lot, parcel or unit of land must also include any additional compulsory assessments or costs to the prospective purchaser.

(dd) Advertising shall not make derogatory or unfair reference to competitive developments, subdivisions, or properties.

(ee) If advertising makes reference to property exchange privileges, any qualifications concerning such exchange privileges must be stated clearly. If advertising makes reference to promised improvements for which the prospective purchaser will be assessed, such facts shall be disclosed clearly.

(ff) A unit of land cannot be advertised as a homesite or lot if potable water is not available at reasonable cost; further, there must be reasonable assurance that a septic tank will operate or a sewer system is in existence unless these facts are clearly and conspicuously included in each such advertisement pertaining to that property.

188-5.33 *Safeguards and Assurances.*—The Board will not enter an Order of Approval and will consider all advertising false and misleading and lacking in full and fair disclosure because the plan of sales or development lacks adequate safeguards and assurances to prospective purchasers when:

(1) The purported owner of said lands does not have fee simple title to said lands.

(2) The owner's title is encumbered in such manner that lands cannot be used for the purpose or purposes expressly or impliedly represented in the advertising material without removal of such encumbrances unless adequate safeguards are established to reasonably assure the encumbrance will be removed prior to the time the subdivider promises to deliver possession or title, whichever is to be delivered first.

(3) The receipt, contract or agreement given to prospective purchasers by the owner upon payment of the first money by said prospective purchaser is not sufficient in form to vest an interest in said lands immediately in the prospective purchaser and afford notice to all persons of such interest by recordation thereof.

(4) The map or plat of subdivided lands by which lots, tracts or parcels are offered for sale has not been recorded in the public records of the county where said lands are located and all streets, roads, alleys, easements, parks and other public areas shown thereon have been dedicated to the appropriate private or public authority.

(5) The owner allows any mortgages, liens or encumbrances to be placed and remain on subdivided lands, or any portion thereof, other than specific lots upon

which improvements are constructed, and other than those in existence at the time of the approval of his initial filing on the aforesaid subdivided lands without notifying the Board and furnishing adequate safeguards reasonably assuring each purchaser that upon payment of the purchase price as provided in the sales agreement, title will be delivered to the property with all promised improvements as contracted. Such safeguards to be subject to the review and approval of the Board at its discretion.

(6) The owner allows sales contracts on subdivided lands, or any portion thereof, to be transferred, assigned, sold, pledged or given as collateral security without notifying the Board and furnishing adequate safeguards reasonably assuring each purchaser that upon payment of the purchase price, as provided in the sales agreement, title will be delivered to the property with all promised improvements as contracted. Such safeguards to be subject to the review and approval of the Board at its discretion.

(7) The owner does not provide adequate safeguards approved by the Board reasonably assuring contract purchasers who have complete refund privileges in excess of 30 days that if said refund privileges are exercised, the owner will be in a position to refund in accordance with his agreement.

188-5.34 *Implied Representations.*—Any inference reasonably to be drawn from advertising or promotional material will be considered to be a positive assertion unless the inference is negated therein in clear and unmistakable terms, or unless adequate safeguards have been provided by the owner to reasonably guarantee the occurrence of the thing inferred. Advertising or promotional material will be judged on the basis of the positive representations contained therein and the reasonable inferences to be drawn therefrom. Unless the contrary affirmatively appears in advertising or promotional material, the following inferences will be assumed to have been intended in each case mentioned; to wit:

(1) When homesites or building lots are advertised, the inference is that said lots are immediately usable for such purpose without any further improvement or development by the prospective purchaser and that there is an adequate potable water supply available; that the lands have been approved for installation of septic tanks or that an adequate sewage disposal system is installed; that no further major draining, filling or subsurface improvement is necessary to construct dwellings, except for reasonable preparation for construction; that the individual homesites or building lots are accessible by automobile without additional expense to the purchaser over existing right-of-way; and that no other fact or circumstance exists to prohibit the use of the lots as a homesite or building lot.

(2) When title insurance, abstract or attorney's opinion is advertised, the inference is that the seller can and will convey fee simple title free and clear of all liens, encumbrances and defects except those which are disclosed in writing to the prospective purchaser prior to purchase.

(3) When lands are advertised as usable for any particular purpose other than homesites or building lots, the inference is that said lots or parcels are immediately accessible and usable for such purpose by purchasers without the necessity for draining, filling or other improvement prior to putting the lands to use for such purpose and that no fact or circumstance exists to prohibit the immediate use of said lands for such purposes.

(4) When any recreational facility, improvement, accommodation or privilege is advertised, the inference is that the same is on the lands at the present time and available without restriction to the purchasers of lots at no additional expense.

(5) When improvements are advertised, the inference is that the same are completed.

188-5.35 *Out-of-State Advertising.*—(1) When advertising approved by this Board is disapproved in another State or jurisdiction, the advertising may be changed to meet the requirements of that State or jurisdiction without prior approval from this Board, provided that—

(a) This Board is immediately notified of the change;

(b) A copy of the advertising as changed is filed with this Board within ten (10) days;

(c) A copy of correspondence from the other state or jurisdiction requiring the change is filed with this Board within ten (10) days; and

(d) The changed advertising is used only in the state or jurisdiction where the change was required.



## CHAPTER 188-6 PROPERTY REPORT

- 188-6.40 Policy
- 188-6.41 General
- 188-6.42 Content of Property Report
- 188-6.43 Investigation
- 188-6.44 Use
- 188-6.45 Amendment of Property Report
- 188-6.46 Prohibition

## CHAPTER 188-6 PROPERTY REPORT

188-6.40 *Policy*.—The Board hereby adopts and approves the use of a Property Report, as hereinafter provided, by registrants under the Florida Land Sales Act. The report is designed to effectuate full and fair disclosure of pertinent information to the purchasing public.

188-6.41 *General*.—(1) All registrants under the jurisdiction of the Land Sales Board who make an initial filing of advertising or promotional material shall include with said filing a property report on a form prescribed by the Board.

(2) All property reports shall be fully completed or the initial filing application shall be returned to the applicant as insufficient.

188-6.42 *Content of Property Report*.—(1) A property report is designed to accurately disclose the basic nature of the land offered, and to make available to a prospective purchaser all unusual circumstances or features concerning the offering. Without any intent to limit necessary disclosure in a property report, the following information, when applicable, shall be included in a property report:

- (a) Name of subdivider.
- (b) Location of property.
- (c) Topographical characteristics of property.
- (d) Availability of public utilities, including water, gas and telephone facilities, with the cost for initial installation.
- (e) Restrictions or reservations of record which subject the property to any unusual conditions adversely affecting its use or occupancy.
- (f) Any easements, servitudes or restrictions adversely affecting the title or the purpose for which the land is advertised.
- (g) Necessity of public undertaking to adequately drain property and whether there is such a plan under consideration.
- (h) Where lots, parcels, or units are not part of a recorded subdivision, state whether individual lots, parcels or units may be located without survey and the steps necessary to locate land.
- (i) Amplifying information relative to the status and plans for improvements of the property.
- (j) Availability and source of fire and police protection.
- (k) Distance to nearest schools and hospitals.
- (l) Any further information which is essential to a full and fair disclosure of the basic nature of the land being offered and the representations or implications made by the subdivider.

188-6.43 *Investigation*.—(1) It shall be the duty of the Board to screen each property report and in so doing shall make appropriate inquiry and investigation into the truthfulness and accuracy of the information submitted in said report.

(2) In accomplishing appropriate inquiry, the Board may:

- (a) Make independent investigation concerning representations contained in a property report; or
- (b) The Board may require a registrant to furnish an affidavit concerning representations contained in a property report.

188-6.44 *Use*.—(1) A property report is considered to be a part of the initial filing of a registrant and approval or disapproval will be given by the Board in conjunction with action taken on an initial filing.

(2) A registrant shall, upon approval by the Board of a property report, cause the same to be reproduced on white legal size paper and made available to every purchaser of real estate in the subdivision of the registrant prior to the time said purchaser enters into an installment contract.

(3) The registrant, in making the property report available to a purchaser, shall satisfy the requirements set out herein by adhering to one of the following:

- (a) Obtain the signature of purchaser on the property report; said signature attesting to delivery of the report prior to the purchase.
- (b) Incorporating an appropriate statement in a conspicuous place on the contract which affirmatively states that the property report has been delivered to the purchaser prior to the purchase.

(4) The signed property report or the contract making reference to such report shall be maintained in the files of the registrant and shall be available to authorized Board personnel upon request.

188-6.45 *Amendment of Property Report.*—A registrant may amend a property report at any time provided that said amendment is on a form furnished by the Board and has been fully completed. The Board shall make appropriate inquiry and investigation concerning any amendment, provided that said amendment shall be approved or disapproved within 15 days from the day of acceptance for filing or the person submitting same may utilize the information without penalty.

188-6.46 *Prohibition.*—The promotional use, either directly or indirectly, of a property report of another registrant is strictly prohibited. A violation of this regulation shall subject a registrant to the full penalty of the law.

#### CHAPTER 188-7 ENCUMBRANCES AND IMPROVEMENTS

188-7.01 *Mortgages, Liens or Other Encumbrances.*—(1) The owner of subdivided lands, or any portion thereof, encumbered by liens, mortgages or other encumbrances, shall not receive Board approval of any advertising and shall not be allowed to offer said lands for sale to the public; provided, however, that liens (other than recorded easements), mortgages or other encumbrances shall not be considered objectionable if adequate release clauses are contained in the encumbering instrument. Adequate release clauses are those which shall provide reasonable protection to the prospective purchaser and must include, but shall not be limited to the following:

(a) The release of noncontiguous separate lots, units or parcels of the same size being offered to prospective purchasers.

(b) A reasonable payment which may not exceed 50 percent of the sales price of the lot for the exercise of release privileges.

(c) The release clause must have legal efficacy up to the time of final decree in the event the mortgage is foreclosed.

(2) In the event the encumbering instrument does not contain adequate release clauses, as described above, the liens or encumbrances shall be considered objectionable unless adequate reserves are maintained in a trust or escrow account. In determining the provisions of an adequate trust or escrow account, the Board shall be guided by the facts and circumstances of each individual case; provided, however, that all trust or escrow accounts, established pursuant hereto, shall satisfy the following:

(a) Funds shall be kept and maintained in an account separate and apart from the owner's personal funds.

(b) The account shall be established in a bank or trust company doing business in Florida, or other state, where the account is required to be maintained there by the laws of such state and approved by the Board.

(c) The escrow or trust agreement shall provide that the purpose of the agreement is to protect the purchaser or prospective purchaser in the event of default on any lien or mortgage obligation.

(d) The Board, through its Executive Director or Counsel, shall execute an acknowledgement on the face of each agreement established pursuant hereto. This acknowledgment will serve to indicate approval of the agreement as to form and content but shall not, in any way, be construed to make the Florida Installment Land Sales Board a party thereto.

188-7.02 *Improvements on or to Subdivided Lands.*—(1) The owner of subdivided land, or any portion thereof, on which the construction of promised improvements for public use, convenience and necessity have not been completed, shall not receive Board approval of any advertising and shall not be allowed to offer said lands for sale; provided, however, that uncompleted improvements shall not constitute an objection if completion of such improvements is assured by substantial completion, bonds or similar undertaking posted with a public authority and acceptable to the Board, as set out in Rule 188-7.03 or adequate reserves established and maintained in a trust or escrow account. In determining the provisions of an adequate trust or escrow account, the Board shall be guided by the facts and circumstances of each individual case; provided, however, that all trust or escrow accounts established pursuant hereto, shall satisfy the following:

(a) Funds shall be kept and maintained in an account separate and apart from the owner's personal funds.

(b) The account shall be established in a bank or trust company doing business in Florida.

(c) The escrow or trust agreement shall provide that the purpose of the agreement is to protect the purchaser or prospective purchaser in the event that the owner fails to complete the construction of promised improvements or to satisfy any obligations or liens encumbering the purchaser's title by reason of such construction.

(d) The Board, through its Executive Director or Counsel, shall execute an acknowledgment on the face of each agreement, established pursuant hereto. This acknowledgment will serve to indicate approval of the agreement as to form and content, but shall not, in any way, be construed to make the Florida Installment Land Sales Board a party thereto.

(2) The owner of subdivided lands, or any portion thereof, on which the construction of promised improvements, not comprehended above, is represented or implied and the improvements have not been completed, then such owner shall not receive Board approval of any advertising and shall not be allowed to offer said lands for sale to the public; provided, however, that uncompleted improvements, comprehended herein, shall not constitute an objection if the completion is assured by:

(a) Adequate plan of development with self-imposed trust or escrow account, said plan being acceptable to the Board.

(b) In the event of the failure of the owner to establish an adequate plan of development or to adhere to such plan once established, the Board may require the establishment of an escrow or trust account, as described above.

1887-.03 *Form of Performance Bonds.*—The Board may, at its discretion, accept corporate bonds, surety bonds, personal bonds or any other financial security which it deems adequate in insuring that plan of development has adequate safeguards and assurances. In determining the security required, the Board shall examine the status improvements; the overall cost of improvements, the terms of purchasers' contracts and such other data as it may deem necessary.

(Other material for the record.)

(Whereupon, at 12:30 p.m., the hearing recessed, to be reconvened at 2 p.m. the same day.)

[From the Miami Herald, Apr. 22, 1963]

#### HODGEPODGE PROGRESS—DAMP, HARD-TO-FIND LOTS BEING SOLD

Mail order buyers of remote Florida land may be in for a shock when they want to have it surveyed. This is just one of the problems posed by the State's latest land boom, as Haines Colbert points out in the last of a series.

(By Haines Colbert)

A Miami Beach woman telephoned Engineer W. R. Wilson in Naples for an estimate on the cost of surveying her small land purchase in eastern Collier County.

"I gave her a price of \$20,000," Wilson said. "She must have dropped the telephone. I heard a loud noise, and she never did come back on the line."

The buyers of hundreds of thousands of acres in Collier and other counties face a similar shock if they ever attempt to do anything with their purchases. Some of the problems, both for the buyers and for the State, seem to be insoluble.

The bit of land bought by the Miami Beach woman is near the Dade-Collier boundary several miles north of the Tamiami Trail. It is part of a 107,000-acre tract sold in 1959 by the Barron Collier Estate to East Land Corp. of Miami Beach for \$22.88 an acre.

East Land sold it in 1960 and 1961, at prices ranging from \$34 to \$42 an acre, to a group of subdividers. They have resold most of it in small parcels for up to \$300 an acre.

The subdividers, in brochures distributed throughout the world, have made a great point of the fact that the land is not in the Everglades and is not a swamp.

But this is how Collier County Engineer W. Harmon Turner described the property:

"It's a flat, mostly covered by water in the wet season and the water drains off very slowly. There are large marshes which are wet most of the time.

"The greater part of it never has been surveyed, even by the Federal Government, so a buyer really has no way of knowing where his property is located. It could be on a high spot or it could be in a marsh."

#### GOT TO LAY OUT WHOLE TOWNSHIP

Engineer Wilson estimated that it would cost \$20,000 to survey the one lot because he would be required to go 21 miles from the nearest previously surveyed point, lay out a township of 36 square miles, reduce that to sections of 1 square mile and then find the boundaries of the woman's property.

If other owners wanted surveys, the cost would be reduced.

Suppose, though, that you buy one of the 5-acre tracts being sold for \$1,295 on the theory that you're going to subdivide it—as the promoters claim you can—and make money.

Even if the boundaries of the 5 acres had been established, Wilson said, you could expect to pay another \$250 for a plat—the drawing which shows the location of the lots, streets, and so forth.

If you divided your 5 acres into 16 lots—75 feet by 100 feet—you'd need a street 660 feet long, the least expensive street would cost you about \$3.50 a foot—\$2,310; one with curbs would run \$11 a foot, or \$7,260.

#### MANY OWNERS ARE OVERSEAS

All of this is based on the assumption that you've been able to round up and secure the complete cooperation of a few thousand fellow landowners, about half of whom are servicemen stationed overseas.

You need them to share with you the cost, amounting to several million dollars, of draining and surveying the property—and to give you a means of getting in and out.

There are no easements for roads in the property. Without the formal consent of everyone between you and the nearest highway, you'd have to trespass to reach your land.

This is the "parcelization" against which the top men in the installment land industry and almost all State and county planners have warned. As the Governor's committee on interstate land sales put it in a report to the legislature:

"After a large acreage tract is broken into small parcels with scattered ownership, it is difficult if not impossible to reassemble the parcels into a usable unit for proper development when the time is propitious."

#### AREA IS NEEDED FOR A RESERVOIR

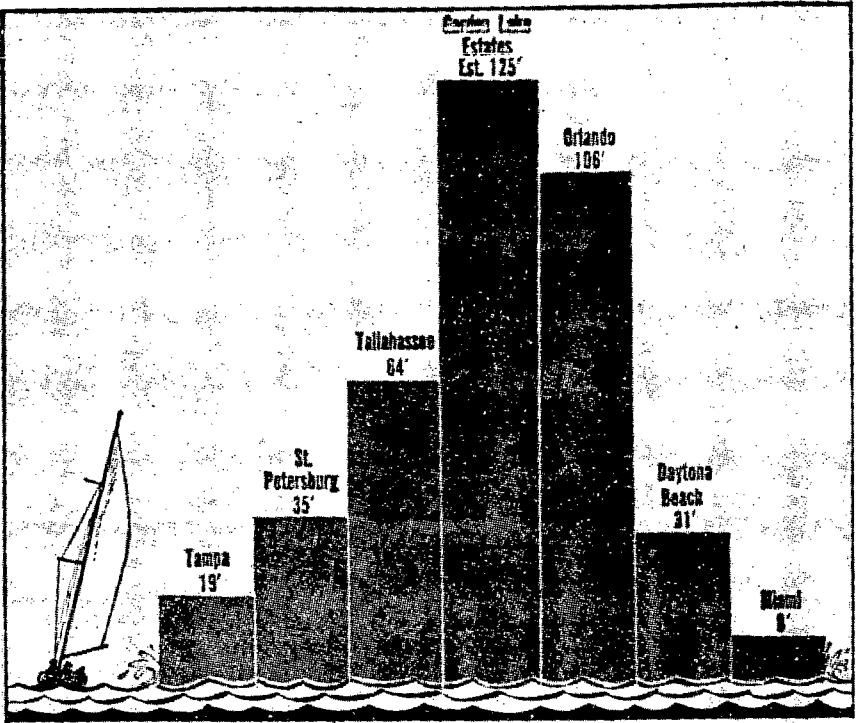
In other words, if the great westward surge anticipated by the land sellers should materialize, it would be much simpler for a community builder or industrialist to buy a few hundred thousand acres from the Collier family than to search the world for the soldier-owners of thousands of 1½-acre "estates."

An even more complicated problem has arisen in Lake County, near Brooksville, where the Peerless Investment Co. of Tampa is selling its Garden Lake Estates.

The company advertised that Garden Lake Estates has an elevation of 125 feet. A diagram shows it towering over other communities, including Miami, which is rated at 8 feet.

All of this is true, but Garden Lake Estates also extends into what is known as the Green Swamp. The Southwest Florida Water Management District estimates that 200 tracts of from 1 to 5 acres have been sold within the boundaries of what will be a reservoir.

The district, established by the legislature in 1961, has been unable to step in and condemn the land because it doesn't have the money. A \$200,000 allocation for detailed planning is contained in a budget awaiting action by Congress.



**Diagram Shows These Elevations for Florida Cities**

*... more than meets eye in Garden Lake Estates advertisement*

#### THE ELEVATION PROVIDES PRESSURE

Lamar Johnson, of Lake Wales, an engineer who is planning the project, explained:

"The reservoir, which will cover about 100 square miles, is vitally important to Florida. The elevation provides enough pressure to push water underground clear down to Sarasota.

"If that area were drained, there'd be no fresh water along the whole lower west coast of the State and the salt water would seep into the well fields. The reservoir also will enable us to control the Hillsborough River, preventing floods in Tampa, and three other rivers which spring from the same area.

"The sale of land up there will make the project just that much more expensive. Even if the property is condemned at the old price, it will be costly to run down the buyers and notify them of the court proceedings."

John W. McWhirter, Jr., executive director of the Florida Installment Land Sales Board, said the promoters have been required to warn customers that the land may be taken over for a reservoir.

McWhirter said the company also has been told to advertise the fact that the only access to the property is over a private road which it does not control. But he said the sales continue.

## THE WARNINGS HAVE NO EFFECT

Warnings by the Orange County Commission to purchasers of lots in Orange County Acres, South Orlando Acres, and Orlando Highlands had no more effect. The commission sent to the buyers and persons inquiring about the projects a letter pointing out that they contain "low and even wet" areas which would interfere with development and the installation of sanitary facilities, that there are no approved plans for streets or drainage and that the county has not agreed to provide them.

County officials said, however, that the sales continued.

"We can't spoon feed people," McWhirter said. "If they want to buy in a swamp that's their business.

"What we can do, though, is to make absolutely certain that they know what they are getting. The board is seeing to it now that advertising not only is true, but that it is not misleading.

"If a subdivider says his project is near some community, we require him to put in the number of miles. If he mentions mineral rights, he's required to state what kind of mining or drilling has been done in that area and how it turned out.

"The next step, as soon as our questionnaires are completed, will be to demand full disclosure of everything affecting the property to be sold. A prospective buyer reading the questionnaire will know precisely where the land is located, what it is like, if it would be possible for him to develop it, and, if so, what it would cost him.

"The only problem, I think, will be to get people to read the questionnaire."

## BUYERS IGNORE THE INFORMATION

There is a kind of driving force behind the boom which causes people to brush aside such information as McWhirter is trying to impart.

Said Roscoe H. Jones, director of the Date Planning Department:

"I think it's that people hear about the 'population explosion' and get the idea that the whole planet is going to be covered any minute.

"They don't realize that the population—even in such an overpopulated country as India—tends to concentrate.

"Dade County, for example, has about 800 habitable square miles out of the total of 2,300. We now have a population of about 1,100,000 living on 200 square miles. If the population reaches 2,500,000 in 1985, as is expected, it still won't occupy more than 400 square miles.

"The Orlando area has something like 3,600 to 4,000 square miles available. It could attain a population of 2 million in 1985 and not need more than one-tenth of the land.

"Some of the new communities have a good reason for being where they are and should develop. I'm afraid the people in many of the others will be disappointed—and it's going to be hard for the counties and the State to pick up the pieces."

## SOME TIPS FOR BUYERS

The National Better Business Bureau offers some suggestions to prospective buyers of real estate. Among them:

Examine personally any property you intend to buy. Failure to do this is a major cause of dissatisfaction.

Check the background of the company with which you are doing business.

If prices of lots are featured in advertising, make sure that one lot is of sufficient area for a house. Many developers advertise lots singly, but it might take two to make a homesite.

Learn the current selling price of unimproved land adjacent to the property in which you're interested.

Find out who owns the land. If it is mortgaged, make sure that you will be given clear title without encumbrances.

Is the land dry? If not, is drainage feasible and possible?

If the promoter says you must act quickly, it is usually good policy to move more slowly than ever.

[From the Miami Herald, Apr. 19, 1964]

### BOOM IS 800,000 ACRES OF SUBDIVIDED HOPE

Herald Staff Writer Haines Colbert has completed a 6-week tour of 32 Florida counties gathering information about land sales promotions. This is the first of a series of articles on the wide range of success and failure that he found and what it means to the State, residents, and investors.

(By Haines Colbert)

The second Florida land boom is more of an emotional experience than a business operation.

It's fascinating, inspiring, and depressing—and you need to drive a couple of thousand miles around the State to get any real idea of what it is all about.

The boom is a bright new city, swarming with workmen; you play golf there with a tobacco-chewing retired Navy captain, and he tells you he's never been busier or happier.

Down the road, the new boom has left a ghosttown. Riding along its wide, deteriorating avenues is an eerie experience. There are scattered homes, but not a person in sight. A quarter of a million dollars' worth of mercury vapor street lights are dark at night because no one will pay the \$2,200 a month it costs to operate them.

A salesman in another part of the State reminds you that Miami Beach once was a swamp, too.

And C. W. (Pete) Chase, sales manager for the late Carl Fisher during the boom of the 1920's, replies:

"Yes, but we had a beautiful sand beach to go along with the swamp, and Mr. Fisher spent \$6 million of his own money developing the property before he put the first lot on the market."

The boom has left its marks from the Keys up both coasts of Florida, through the hill country in the center of the State, clear up into the Panhandle. The highways in places seem almost to be walled with billboards promising that the gates of heaven are right around the next bend.

You see city sites dwarfing Miami in area—larger, as the salesmen point out, than Detroit; larger than Manhattan Island.

They're part of the boom, but there is much more. The platbooks and tax records in the courthouses reveal the hopes of buyers and sellers of hundreds of thousands of additional acres.

"You don't even know anybody's doing anything with a lot of property until the deeds start coming in to be recorded," says a clerk. "All of a sudden, you find out that a big hunk of land has been sold off to people—most of them servicemen—in Germany and Japan and about every other country you can think of."

Some of this property is visible from the road, but is unidentifiable as the site of a future metropolis because nothing has been done to it. Vast other tracts are far from any highway, inaccessible, frequently under water, in some cases not even surveyed.

Finally, if you really want to see the full face of the boom, you can go to the developers. Their names are listed with the Tampa headquarters of the Florida Installment Land Sales Board.

The board was created by the 1963 legislature and has jurisdiction over subdividers offering 50 or more parcels of real estate for sale on the installment plan in any one year. At last count, there were 196 such subdividers operating 230 subdivisions in the State.

Let them know you are interested and you will see the boom in full, flaming color—with words to match. You'll see spectacular pictures of missiles being launched at Cape Kennedy, factories, girls, fish, the homes of the rich.

No one will claim any of this is on the property he is offering you, but it all seems somehow to be tied up in the package which becomes yours for \$10, \$5, or even \$1 down.

Lots all over the State will be set aside for you with the warning that the offer is good only for a matter of hours or days because a price increase is imminent and a multitude of shrewd investors will be trying to beat you to the ground floor.

Some of this material carries a printing date of 1960 or 1961, but it still sounds urgent.

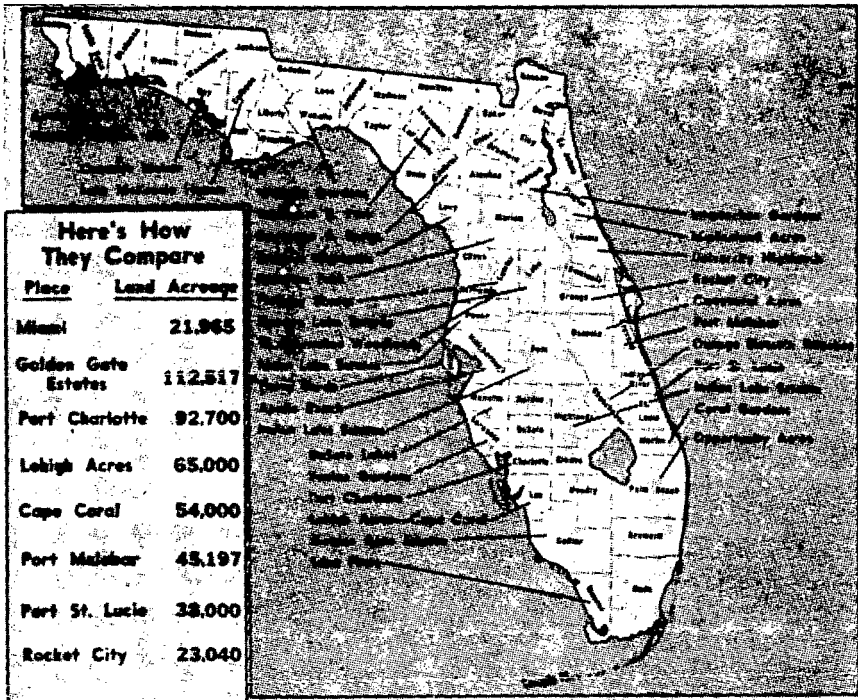
The installment board is in the process of gathering detailed information on all of the subdivisions. When its questionnaires are returned by the subdividers, the board will know precisely what is being offered and the subdividers will be required to furnish the same information to customers.

Until the records are complete, it is possible only to make a good guess at how much land is for sale, is being bought on monthly installments, or has been paid out. Many of the companies state the acreage of subdivisions in their advertisements and the others are dealing in at least the 50 parcels or they wouldn't be listed with the board.

Adding the known figures to the minimum amount of land which the non-reporters must have, you find that the subdividers are dealing in at least 800,000 acres.

This doesn't include the spreading suburbs of the cities. It's apart from the established communities—800,000 acres of what recently was, or is, raw, undeveloped land.

An acre is good for about three homesites. Some subdividers make the lots a little larger, others a little smaller, but three is average.



### Map Shows How Subdivisions Are Distributed Over State

... only one subdivision is shown per county, but some have as many as 20

The 800,000 acres, then, would become 2,400,000 homesites if all of them were broken down and developed. Subdividers immediately retort that they're not splitting up all of the property—that much of it is being sold in blocks of 2½, 5, or 10 acres.

This is true, but it's also true that the buyers of the tracts are assured they can become little subdividers on their own, and one of the larger sellers furnishes them with a booklet illustrating exactly how to get 16 homesites, complete with road and utility easements, out of a 5-acre tract.

So it is reasonable to say that the subdividers are talking in terms of more than 2 million homesites, or of space for at least 5 million people—about the equivalent of the whole population of Florida.



The subdivider, who is questioned about where all the people are going to come from, usually goes into statistics on the growing number of retired persons in the United States and the percentage of them likely to settle here.

He seldom mentions, though, that the subdivisions are in direct competition not only with one another but also with Miami, Fort Lauderdale, Orlando, St. Petersburg, and all the other established communities.

Roscoe Jones, director of the Dade Planning Department, estimates that 74.2 percent of the population of Florida was living in or around established communities in 1960, and that the figure will rise to 77 percent in 1970 and 80 percent in 1980.

Taking 75 percent as a round figure, it would be necessary on that basis to add 20 million people to Florida's population in order to give the cities their share and fill the subdivisions.

While they may not agree with Jones' figures, most subdividers will concede that the majority of the State's new inhabitants do find homes in cities.

To Ralph Smathers, executive director of the Better Business Bureau of Greater Miami, this has no bearing on the ultimate course of the boom.

"I'm bullish about all Florida real estate," says Smathers, "but I'm thinking in terms of a long-range investment—perhaps 30 years in some areas."

Some of the developers take a shorter and colder view.

"We've come to the time," says Frank Mackle of the building Mackle Brothers, "when the builders in this business will be separated from the perfume salesmen. There's plenty of opportunity for the good developer. I think we're going to lose some of the others."



**Unfinished Apollo Beach Yacht Club Is Off Limits**

... court took over when the money ran out

## BEHIND THE BOOM—VACANT DREAMS

Florida is speckled with development dreams that have faded in washed-out beaches and vacant community halls. Here Haines Colbert describes some of them in this third article in a series which takes a sharp look at the State's new land boom.

(By Haines Colbert)

Developers of Indian Lake Estates advertised they spent more than \$5 million on the physical facilities of "Florida's finest golf and country club community."

Two million dollars came from the pension fund of Jimmy Hoffa's Teamsters Union.

But Indian Lake Estates—on the shore of Lake We-oh-ya-Kapka 18 miles southeast of Lake Wales—is one of the new Florida boom communities that didn't make the grade.

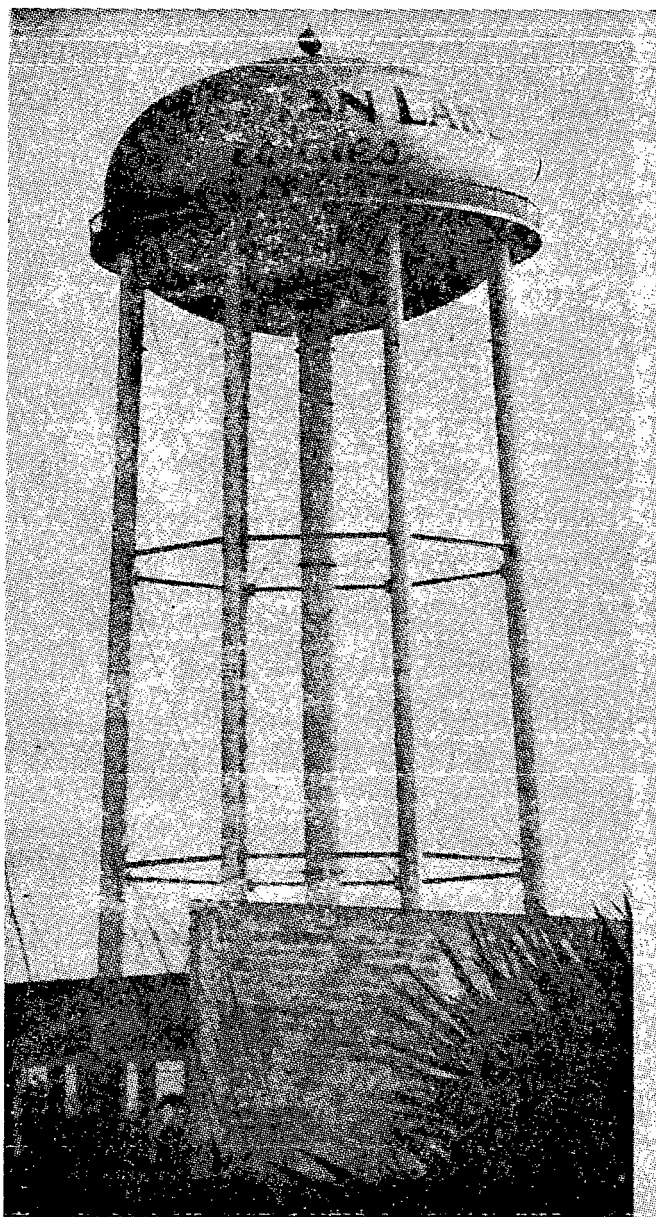
It's easy enough to see where the money went.

The main avenues of Indian Lake Estates look like the midtown portion of Biscayne Boulevard in Miami, only they extend for 20 miles. The lanes are divided by 30-foot strips planted with hundreds of fully developed palm trees.

A T-shaped fishing pier reaches 1,100 feet out into the lake. There's a massive two-story country club with championship 18-hole and par-three golf courses.

Everywhere, along the avenues and fishing pier and around the smaller golf course, the driving range and the shuffleboard courts, are the newest—and most expensive—thing in mercury vapor lights.

A 300,000-gallon water tank towers over a lone, weatherbeaten wall rising out of the weeds of what was to have been the site of a \$150,000 shopping plaza.



—Harald Staff Photo by HAINES COLBERT

## Water Tower at Indian Lakes

*... near wall of forgotten plaza*

Indian Lake Estates also had a sand beach, white, wide and a mile long.

"The loss of the beach is one of the saddest things that's happened here," said Mrs. Anthony A. Maisano, secretary-treasurer of Indian Lake Estates, Inc., and wife of its president. "It was so beautiful, and they paid a fortune to bring the sand here in trucks from someplace on the coast.

"Most of it has washed off into the lake now, and the weeds have taken over what is left."

The late Leon Ackerman, a developer of subdivisions in Washington, started Indian Lake Estates in January 1956. He sold out in December 1959, to Alaska Oil & Mineral Co., which set up the corporation, of which Maisano is president, as a wholly-owned subsidiary.

Mrs. Maisano said the Teamsters Union took a mortgage on the unsold property as security for a \$1.5 million loan early in the life of the subdivision and later added a half million.

"The trouble was that it cost so much to put in improvements to attract buyers," Mrs. Maisano said. "The street lights cost a quarter of a million dollars, and we can't turn them on because the electric bill for them is \$2,200 a month.

"Then, most of the people who bought lots for retirement didn't move in right away. There wasn't enough income and everything stopped."

#### COMPANY TRYING TO START AGAIN

Mrs. Maisano said the company is attempting to start over by bringing residents into a 175-acre tract around the nucleus of a group of model homes. Other property in the 9,600-acre subdivision has been taken off the market.

Residents of the existing homes, scattered here and there, half a mile or more apart, will have no neighbors for a long time, if ever. The long furrows through the forest—already marked with one-way signs—which were to have been new highways won't be needed soon, nor would there be much point in going on with the shopping center.

Indian Lake Estates is more depressing than some of the other communities which have sprouted and withered in the less than 10 years of the boom. But others are in worse shape.

Apollo Beach, on the bayfront 12 miles south of Tampa, has been under control of a Federal court receiver since December 1961. Most of the 230 homes appear to be occupied, but they are scattered and the weeds have grown high in the vacant lots.

Land pumped out of the bay at great expense has slipped back in; the half-finished yacht club appears to be haunted; signs warning that various properties have been put off limits by the U.S. Government give the community a grim air.



**A Dream Fades Into the Underbrush at Indian Lake Estates**  
*... the traffic comes to a halt in wind-blown sand*



—Herald Staff Photos by HAINES COLBERT

**The Bloom Is Off the Boom at Apollo Beach**  
*... only residents allowed past the gate*

A portion of the property will be auctioned in June by order of the Federal court. Meanwhile, more than 1,000 suits for judgments await action in State courts.

Apollo Beach had the misfortune to be caught up in an involved mortgage deal which really had nothing to do with its development. William Cahn, of Miami Beach, who took over from the original developers, testified he went into Apollo Beach only to create mortgages to be handled by the numerous interlocking companies which he formed for the purpose.

#### BEAUTIFUL SITE SLAMS TO A STOP

Harbour Heights, occupying a beautiful site on the Peace River near Punta Gorda, slammed to a dead stop when the Charlotte County Land & Title Co. went into receivership.

Mrs. Ina Mae Poole Stevens, owner of a beauty shop and the building which houses it and the Harbour Heights postoffice, insisted she and her friends are perfectly happy.

"We enjoy the peace and quiet," she said. "We feel a little exclusive out here."

But the big community center is used only when a group of the residents plan some special function and get the key. And the space in Mrs. Stevens' building which once was occupied by a restaurant and several other stores is empty.

Several other communities, including the barely started Tam-O-Lark near Cape Kennedy, are under control of the courts. Many more are struggling, still in business but no longer showing signs of progress or attracting new residents.

They constitute one of the most serious problems of the boom.

John W. McWhirter, Jr., executive director of the Florida Installment Land Sales Board, said this was what he had in mind when he made a comment which came out in a New York newspaper as, "the 'good' developers may hurt people more than the 'bads.'"

Said McWhirter:

"What I was trying to get across was that a developer who goes ahead and puts up a community but doesn't plan it properly or goes out of business because he is underfinanced may be more harmful than the outright crook who sells lots in a swamp.

"The really good developers, I think, have created a fantastic opportunity for people with little money to own land; they've publicized Florida; they bring people here to see the State; they're helping to create good cities.

"The poor developers are the ones who really cause the trouble because people invest their savings with them to buy homes. Then, if the development deteriorates or gets tangled up in litigation, the people are caught. They can't sell their homes, and many of them don't have the money to go somewhere else."

#### FIVE-MAN BOARD STUDIES CHANGES

McWhirter, 31, is a Tampa attorney who was with the Florida Public Utilities Commission in Tallahassee before he was named director of the new board in August 1963.

The five-man board was created by the 1963 Legislature to take jurisdiction over companies selling land on the installment plan. They had come under the Florida Real Estate Commission, which was swamped by the volume of their business when the boom began to roll in the late fifties.

The legislature also required that all advertising of the installment companies be submitted to the board, which has power to veto it. Previously, land dealers were required to get the commission's approval for advertising outside the State but were free to say what they pleased in Florida.

Establishment of the Board was recommended by a committee named by Gov. Farris Bryant after a number of newspapers and magazines had blasted segments of the installment land industry in Florida and other States.

McWhirter and the board members have been occupied largely with finding out exactly what they control, but some of the steps they are planning could have a profound effect on the business.

[From the Miami Herald, Apr. 20, 1964]

## CONSTRUCTION FOLLOWS WILD SELLING SPREE

The city makers are the men who decided you needed to sell something more than land to keep Florida's second boom going. Here Haines Colbert tells you about the city makers and their cities.

(By Haines Colbert)

Major installment land sales companies of Florida are being forced into the homebuilding business whether they like it or not.

Bad publicity, last year's scare over missiles in Cuba, too much competition and the growing sophistication of customers have been blamed for a decline in lot sales which makes the change necessary.

Also responsible are the ground rules of one of the few businesses in which it is not unusual to close out a year with \$50 million in sales and no money.

Exactly what did happen to the land boom—and when—is disputed by leaders of the industry. But they agree that the great rush to buy Florida lots through the mail at \$10 down and \$10 a month is about over.

In the early case of the boom, in 1955 and 1956, it was amazingly easy to convince a prospect that almost any cow pasture would be transformed overnight into a city. Now, prospective buyers are more inclined to look before buying and to say:

"OK, you've been talking about this place for years. Where is the department store? Where's the hospital? Where are all the people?"

Some of the community builders have performed wonders. It is amazing that General Development Corp's Port Charlotte, near Punta Gorda, has attained a population of almost 13,000 since the first residents arrived in December 1956.

Cape Coral, the Gulf American Land Corp. project near Fort Myers, was started in 1958 and now has 3,500 residents. Lehigh Acres, east of Fort Myers, was started by Lehigh Acres Development Corp. in 1955 and has a population of 4,000.

The Mackle Bros.' Deltona—between Orlando and Daytona Beach—has been in existence only since November 1962 and has more than 500 residents.

These and several other new communities have made spectacular progress. Still, the buyer has questions. If he's considering the purchase of a lot 10, or even 5, miles out from the center of activity in one of the 50,000 to 100,000-acre developments, when will it grow out to him? When will there be enough people to attract and support the stores, theaters, hospitals and all the other facilities that are part of a real city?

## PUTTING THEM IN PERSPECTIVE

Here's one way to put the size of the new communities in perspective:

- (1) Eight of the best known, most advertised of them—ranging in age from 2 to 7 years—have a combined population of about 25,500.
- (2) North Miami Beach, one of the smaller Dade communities, has a population of 24,000.
- (3) Dade County added about 25,000 new residents in the past year.
- (4) The population of the unincorporated portion of Dade County increased by more than 72,000 between 1960 and the end of 1963.

"The pressure is on now," a spokesman for one of the developers said, "Prospective customers want to see signs of progress.

"You can sell them land out in the boondocks, but it's harder than it was—which means that every sale costs more than it did a few years ago.

"Salesmen demand higher commissions when the going is tough. To make a sale, you have to do more advertising, make more long-distance telephone calls, take people on more free airplane rides."

## SELLING COSTS ON THE INCREASE

An example of the increased cost of selling was brought out recently by Walter Rogers, financial adviser to Collier County. Rogers went over Gulf American audits to help the county commission decide whether it should demand more surety bonds from the firm to guarantee improvements to its vast Golden Gate Estates subdivision.

Gulf American listed, for the fiscal years ending August 31, 1962, and 1963, the total sales of land, houses and apartments, and the commissions, advertising, and other selling expenses necessary to produce the sales.

These are the figures :

Sales, 1962: \$73,253,338; cost, 1962, \$17,022,857; sales, 1963, \$68,877,794; cost, 1963, \$19,595,855.

In simpler terms, the cost to Gulf American of bringing in \$1 in sales was about 30 cents in 1962 and almost 39 cents in 1963.

And this takes us back to the universally employed but misleading arithmetic of the installment land sales business.

Take the case of a developer who is selling lots for \$1,200 apiece. The terms are \$10 as a deposit and \$15 a month. As soon as that \$25 is paid and the contract is signed, the developer enters \$1,200 in his books as a sale. If he sold 1,000 such lots, he'd announce sales of \$1,200,000.

#### TYPICAL CASE—IN HOLE AT FIRST

Actually, the developer has nothing at this point; he's in the hole. In a typical case, the sales agent—whose commission runs from 20 percent up—gets the customer's first \$25, plus a \$12.50 advance from the company and 70 percent of the monthly payments until he is paid off.

The developer, as soon as he makes the sale, must set aside money for the improvement of the property. He's already put up a bond with the county to guarantee that the improvements will be made.

On top of this, he's paying off the mortgage on the property which he is developing, paying back the money he borrowed to make improvements, paying salaries and office rent, paying for advertising, promotion, and airplanes.

Eventually, if a company can hold out long enough, it reaches a point where it can begin to keep the \$10 monthly installment checks. This is known as cash flow, and it's what makes the wheels go round.

The need for an adequate cash flow provides another strong reason for going into homebuilding. The developer who sells a home gets his money now, either from the customer or a mortgage company, instead of waiting 8 to 10 years for all of the payments on a lot to dribble in.

#### HOMEBUILDING THINKING SHIFTS

A series of statements by Leonard Rosen, president of the Gulf American, shows how he completely changed his mind about homebuilding in 1 year.

Rosen expressed his original stand in a magazine interview. He obviously approved of what was written because reprints of the article still are distributed by the company as promotional material.

This is from the April 1963 issue of the American Investor :

"Rosen is unexcited by the prospects of going into the building business at his developments, as some of his competitors have.

"We feel that earnings can best be made for the company and its stockholders through land sales. Such sales will yield us about 14 to 15 percent net after taxes on our method of accounting, whereas on a building operation, sales would yield only 2 or 3 percent after taxes."

Eight months later—November 20, 1963—Gulf American issued a prospective required before it could sell securities in Tennessee. That said :

"In addition to its land sales activities, the company has found it necessary to engage in the construction business for the purpose of building homes, multiple dwellings and public and recreational facilities."

#### EMPHASIS NOW ON HOME SALES

Last week, Rosen told the Herald :

"We're now concentrating on the sale of homes. We'll continue to sell homesites and acreage, but the emphasis is on home sales."

Rosen and his brother Jack, merchandisers of cosmetics before they organized Gulf Guaranty Land & Title Co. (now Gulf American) in 1957, simply took longer than their chief competitors to arrive at the same decision.

Gerald H. Gould, former advertising company executive who now is president of Lehigh Acres Development Corp. said :

"We went through the high pressure phase—the long distance telephone calls and a quarter of a million dollars worth of advertising in the newspapers on one Sunday—back in 1957 and 1958.

"In the past few years, we've turned to developing a community. When you get enough people and facilities in a community, it achieves a momentum of its own and sells itself.



"That's what is happening now. We've sold 55,000 lots and we'd have another 100,000 to sell if we developed the whole 60,000 acres here, but I have no idea when that will be done. The whole idea now is to build up what we have."

General Development Corp. reached the same decision by a roundabout corporate route. It started out in 1928 as the Chemical Research Corp., became Florida Canada Corp., went into land sales and merged with the Mackle Bros. as General Development in 1958 and then went its own way under financier L. A. Chesler and publisher Gardner Cowles after the Mackles stepped out in 1962.

Before and during the merger period, General Development started a string of vast developments, including Port Charlotte, Port St. Lucie and Port Malabar. It, too, has found it necessary to turn from pushing outlying real estate to building up the hearts of its communities.

The Mackle Brothers, Frank Jr., Elliott and Robert, are the sons of a builder. They developed the community at Key Biscayne.

After leaving General Development, the brothers sold their company to and took over the management of what had been the Cockshutt Farm Equipment Co., went through a period as C.K.P. Developments and now is the Deltona Corp.

Although the Mackles were as thoroughly wrapped up as anyone else in installment land sales, they always insisted that they were primarily builders. Frank Mackle, president of Deltona Corp., put it this way in a recent report to stockholders:

"For your company, the development and sale of land—profitable though we have proved it to be—is not an end in itself. It is only the prelude to our real objective: the construction of full communities."

#### HOW DEVELOPMENT, POPULATION COMPARE

This is how some of Florida's leading new development communities have progressed:

<i>Community</i>	<i>Date started</i>	<i>Population</i>
Port Charlotte	1956	13,000
Lehigh Acres	1955	4,000
Cape Coral	1958	3,500
Port St. Lucie	1958	2,500
Port Malabar	1960	2,000
Deltona	1962	500
Rocket City	1963	40
Golden Gate Estates	1961	none

#### FLORIDA INSTALLMENT LAND SALES BOARD, *Tampa, Fla., June 2, 1964.*

Re Property reports of Florida-Collier Acreage Corp. (raw acreage); C. E. Pitts, Sorrento Shores (homesites); and Magnuson Properties, Inc. (campsites).

SUBCOMMITTEE ON FRAUDS AND MISREPRESENTATIONS AFFECTING THE ELDERLY,  
*U.S. Senate,*  
*Washington, D.C.:*

Enclosed herewith for your record are copies of the above-styled property reports which I told you I would send in my letter of last week.

Sincerely yours,

JOHN W. MCWHIRTER, Jr.,  
*Executive Director.*

# PROPERTY REPORT

## PART I — GENERAL

1. Name of Subdivider: FLORIDA-COLLIER ACREAGE CORP.  
Address: 420 LINCOLN ROAD, MIAMI BEACH, FLORIDA.
2. Name of Subdivision:
3. Location: COLLIER County, State of FLORIDA.
  - a) Name, population and road distance to nearby towns or communities: 50 MILES FROM MIAMI, FLA. (POP. 1 MILLION); 50 MILES FROM NAPLES, FLA. (POP. 5,000+); 20 MILES FROM EVERGLADES, FLA. (POP. 600+).
  - b) Describe route to subdivision: 35 MILES WEST OF MIAMI ON U.S. 41. (TAMIAMI TRAIL), THENCE NORTH APPROX. 3 TO 15 MILES TO THE GENERAL AREA OF THE PROPERTY. THERE ARE NO ROADS DIRECTLY TO THE PROPERTY.
4. Will purchaser receive an insurable title? YES.
5. Is this a homesite development? NO If yes, answer questions a) through d).
  - a) Schools: Elementary \_\_\_\_\_  
 Distance \_\_\_\_\_  
 Jr. High \_\_\_\_\_  
 Distance \_\_\_\_\_  
 High School \_\_\_\_\_  
 Distance \_\_\_\_\_
  - b) Churches: (Denomination and distance of at least three): \_\_\_\_\_
  - c) Hospitals: (Name and distance) \_\_\_\_\_
  - d) State sources of fire and police protection presently available to subdivision: \_\_\_\_\_

## PART II — LAND USE

6. Describe briefly the present topographical characteristics of the land: THE LAND OFFERED FOR SALE IS UNDEVELOPED ACREAGE BEING GENERALLY FLAT. ON THESE LANDS IN THEIR NATURAL STATE ARE SPRUCE, PINE, PALMETTO, OAK, CYPRESS TREES AND PRAIRIE LAND. SOIL IS GENERALLY CLASSIFIED AS A SANDY MARL TYPE. AVERAGE ELEVATION IS 12' TO 14' ABOVE SEA LEVEL.
7. Are the lands or any portion thereof covered by surface waters in any part of the year? (SEE QUESTION 22) YES.
8. a) Will any draining of said lands be necessary to render them usable? YES. If yes, what provision has been made for such drainage. NO PRESENT PLANS EXIST FOR DRAINING THE PROPERTY.  
 b) Will any filling of said lands be necessary to render them usable? NO.
9. Will any subsurface improvement, or special foundation work be necessary to construct one-story commercial or residential structures on the property? NO.
10. Summarize all restrictions, easements or reservations on the property. PRIOR OWNERS OF THE PROPERTY HAVE RESERVED AN UNDIVIDED 75% INTEREST IN THE OIL, GAS AND MINERALS ON, UNDER AND WHICH MAY BE PRODUCED FROM SAID PROPERTY. SIXTY FOOT RIGHT-OF-WAY EASEMENTS HAVE BEEN RECORDED FOR THE GENERAL USE OF THE PUBLIC.

## PART III — IMPROVEMENTS

11. At the time a deed is required to be delivered to purchaser, will all lots or parcels of land in this area be accessible by conventional automobile over roads? NO.  
 a) If NO, how is access to be obtained? BY TRUCK OR JEEP. OVER PRIVATE TRAILS THROUGH NON-OWNED PROPERTY.
12. Has land ever been platted or record? NO.
13. If land has not been platted, has it ever been surveyed? YES. GENERAL AREA IN 1898.  
 a) If YES, are the individual parcels marked or stated in any manner so that purchasers will be able to locate them without additional survey? NO.  
 ✓ b) If NO, will individual parcels be marked or stated in any manner before they are delivered to purchasers? \_\_\_\_\_  
 How will they be marked? \_\_\_\_\_

14. What improvements are promised by the subdivider?

Improvements	Yes	No	Percentage Completed	Promised Completion Date
Drainage . . . . .	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Paved Roads . . . . .	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Graded Roads . . . . .	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Electrical Service . . . . .	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Telephone Connections . . . . .	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Recreational Facilities . . . . .	<input type="checkbox"/>	<input checked="" type="checkbox"/>		

15. Is the electricity available? NO
16. Is telephone service available? NO
17. Are there any provisions for maintenance of roads, drainage and canals in the subdivision? NO ROADS, DRAINAGE OR CANALS PROMISED.
18. If this is a building site subdivision, what plans have been made for the disposal of sewage?  
 Give an estimate of the cost to purchaser: \_\_\_\_\_
19. If this is a building site subdivision, how will purchaser obtain potable drinking water? (Give your estimate of the cost of purchaser) \_\_\_\_\_

## PART IV — THE CONTRACT

20. Will purchasers be required to pay any sum other than actual purchase price in connection with their purchase, or ownership of lots in the subdivision, except taxes, stamps, recording costs and assessments validly imposed by governmental authority? NO. THERE IS NO INTEREST CHARGE.
21. Is there a refund privilege? NO.

## PART V — SUBDIVIDER'S SUMMARY

22. Other pertinent factors that may amplify, explain or add to any answers previously given in this Property Report: WITH REFERENCE TO QUESTION 7, DURING THE RAINY SEASON, JULY TO OCTOBER, THIS LAND IS USUALLY PARTIALLY COVERED WITH WATER. DURING THE REMAINDER OF THE YEAR THIS PROPERTY IS USUALLY DRY.

\* All distances are from approximate center of subdivision; purchasers should determine actual distance from lot they are offered.

# PROPERTY REPORT

## PART I - GENERAL

1. Name of Subdivider: **C. E. Pitts**. Address: **Rt. 2, Box 966, Nokomis, Florida.**
2. Name of Subdivision: **Sorrento Shores**. Location: **Sarasota County, State of Florida.**
  - (a) Name, population and road distance to nearby towns or communities:  
**Venice, Florida, - 4 miles, 12,000; Sarasota, Florida, - 9 miles, 50,000.**
  - (b) Describe route to subdivision: **Directly on U. S. 41.**
3. Will purchaser receive an insurable title? **Yes.**
4. Is this a homesite development? **Yes.**
  - (a) Schools: **Elementary - Nokomis Elementary School.**  
**Distance - 3 miles.**  
**Jr. High - Venice Junior High.**  
**Distance - 4 miles.**  
**High School - Venice High School.**  
**Distance - 4 miles.**
  - (b) Churches: (Denomination and distance of at least three):  
**Nokomis Methodist Church - 3 miles.**  
**Baptist Church - Osprey - 2 miles.**  
**Church of God - Osprey - 2 miles.**  
**Churches of most all faiths within 4-5 miles.**
  - (c) Hospitals: (Name and distance) **Venice Memorial Hospital - 4 miles.**
  - (d) State sources of fire and police protection presently available to subdivision:  
**Nokomis Volunteer Fire Department - Sarasota Co. Sheriff Dept. - Florida Hwy. Patrol.**

## PART II - LAND USE

5. Describe briefly the present topographical characteristics of the land:  
**Sandy loam nine feet elevation - A subdivision completely developed with paved streets and drainage to county specifications and accepted by county for maintenance.**
6. Are the lands or any portion thereof covered by surface waters in any part of the year? **No.**
7. (a) Will any draining of said lands be necessary to render them usable? **No.**  
(b) Will any filling of said lands be necessary to render them usable? **No.**
8. Will any subsurface improvement or special foundation work be necessary to construct one-story commercial or residential structures on the property? **No.**
9. Summarize all restrictions, easements or reservations on the property.  
**Minimum building on inside lots - 1,000 square feet living area.**  
**Minimum building on water lots - 1,200 square feet living area.**  
**All front lines and side lines 5 ft. easements for utilities.**

## PART III - IMPROVEMENTS

10. At the time a deed is required to be delivered to purchaser, will all lots or parcels of land in this area be accessible by conventional automobile over roads? **Yes.**
  - (a) If yes, state right-of-way width and describe the type of roads by which access will be gained to the respective parcels of subdivision of land.  
**50 ft. right-of-way - (22 ft. paved) accepted by county for maintenance.**
11. Has land ever been platted of record? **Yes.**  
First Unit - May, 1960.  
Last Unit - February, 1964.
12. What improvements are promised by the subdivider?  
Drainage - **Yes, 100% completed.**  
Paved Roads - **Yes, 100% completed.**  
Graded Roads - **No.**  
Electrical Service - **Yes, upon request.**  
Telephone Connections - **Yes, upon request.**  
Recreational Facilities:  
List: (Give percentage of completion and date of completion).  
**None - none promised.**  
**Tract on navigable water dedicated to property owners to be used as they see fit.**
13. Is the electricity available? **Yes.** Connection Charge? **No charge.**
14. Is telephone service available? **Yes.** Connection Charge **\$7.50.**
15. Are there any provisions for maintenance of roads, drainage and canals in the subdivision? **Yes.**
  - (a) If yes, what are the provisions for each? **County maintained roads and drainage - property owners maintain canals.**
  - (b) Will there be any charge by subdivider to the purchaser for maintenance? **No.**
16. If this is a building site subdivision, what plans have been made for the disposal of sewage? **Septic tanks.**  
Give an estimate of the cost to purchaser. **\$75.00 (approximately).**
17. If this is a building site subdivision, how will purchaser obtain potable drinking water? (Give your estimate of the cost to purchaser). **Individual wells - approximately \$250.00 or central water system.**

## PART IV - THE CONTRACT

18. Will purchasers be required to pay any sum other than actual purchase price in connection with their purchase, or ownership of lots in the subdivision, except taxes, stamps, recording costs and assessments validly imposed by governmental authority? **Yes.**
  - (a) If yes, briefly describe: **6% interest on amount financed.**
19. Is there a refund privilege? **No.**
20. Have read this property report prior to entering into an installment contract:

Date \_\_\_\_\_ Purchaser \_\_\_\_\_

PROPERTY REPORTPART IGENERAL

1. Name of Subdivider: Magnuson-Properties, Inc., acting for Florida-Colorado Acres, Inc.

Address: 126 S. E. 2nd Street, Miami, Florida - 33131

2. Name of Subdivision: Colorado Mountain Estates Nos. 1, 2, and 3

3. Location: Teller County, State of Colorado

(a) Name, population and road distance to nearby towns or communities: Cripple Creek, 14 miles, approximately 1,200 population; Colorado Springs, 35 miles, approximately 90,000 population.

(b) Describe route to subdivision: From Colorado Springs go west on U. S. Highway 24 to Florissant, thence 4-1/2 miles south to entrance.

4. Will purchaser receive an insurable title? YES

5. Is this a homesite development: NO, cabinsites. If yes, you may answer questions (a) through (d).

(a) Schools: Elementary - Cripple Creek and Victor  
\*Distance 14-19 miles - free bus

High School- Cripple Creek and Woodland Park  
Distance 14-19 miles - free bus

(b) Churches: (Denomination and distance of at least three:)  
Catholic - Woodland Park - 19 miles  
Protestant - Cripple Creek - 14 miles  
Jewish - Colorado Springs - 35 miles

(c) Hospitals: (Name and distance): Cripple Creek - 14 miles

(d) State sources of fire and police protection presently available to subdivision: County fire stations at Cripple Creek (14 miles) and Divide (9 miles). Sheriff at Cripple Creek and on radio patrol.

\*Distances are from approximate center of subdivision; purchasers should determine actual distance from lot they are offered.

PART IILAND USE

6. Describe briefly the present topographical characteristics of the land: Rolling to hilly terrain; approximately 80% wooded; occasional rock outcroppings; elevation 8,600 to 9,300. Decomposed granite-type soil.
7. Are the lands or any portion thereof covered by surface waters in any part of the year? NO, except for a few impounded ponds.
8. Will any subsurface improvement, or special foundation work be necessary to construct one-story commercial or residential structures on the property? NO

PROPERTY REPORT - Page 2

9. Summarize all restrictions, easements or reservations on the property: Deed restrictions provide for 10' utility easements, 400 square feet minimum cabin with plans subject to approval, and protective covenants to prevent nuisances or hazards.

PART IIIIMPROVEMENTS

10. At the time a deed is required to be delivered to purchaser, will all lots or parcels of land in this area be accessible by conventional automobile over roads? YES
- (a) If yes, state right-of-width and describe the type of roads by which access will be gained to the respective parcels of subdivisions of land: 50' and 60' rights-of-way - Graded gravel roads built to meet county approval.
- (b) If yes, but parcels are not presently accessible, please explain: Roads under construction to be completed by May 31, 1964. Funds are in escrow.
11. Has land ever been platted of record? YES, on 12/12/63 and 3/9/64.
12. If land has not been platted, has it ever been surveyed? YES
- (a) If yes, are the individual parcels marked off staked in any manner so that purchasers will be able to locate them without additional survey? YES
13. What improvements are promised by the subdivider?
- | <u>Improvements</u>     | <u>Yes</u> <u>No</u> | <u>Percentage Completed</u>                                       | <u>Promised Completion Date</u> |
|-------------------------|----------------------|---|---------------------------------|
| Drainage                | x                    | Natural Drainage  |                                 |
| Paved Roads             | x                    |   |                                 |
| Graded Roads            | x                    | 100%  |                                 |
| Electrical Service      | x                    | Now on property   | Extended on applic.             |
| Telephone Connections   | x                    | Now on property   | Extended on applic.             |
| Recreational Facilities |                      | Picnic grounds and scenic lookouts will be provided by June 30th. |                                 |
| Others                  |                      | None  |                                 |
14. Is the electricity available? YES. Connection charge \$8.50. Annual minimum, \$43.
15. Is telephone service available? YES. Connection charge - NONE
16. Are there any provisions for maintenance of roads, drainage and canals in the subdivision? YES
- (a) If yes, what are the provisions for each? County acceptance a condition of road contract.
- (b) Will there be any charge by subdividor to the purchaser for maintenance? NO
17. If this is a building site subdivision, what plans have been made for the disposal of sewage? NONE, septic tanks. Give an estimate of the cost to purchaser: \$150.
18. If this is a building site subdivision, how will purchaser obtain potable drinking water? (Give your estimate of the cost to purchaser: Wells - Average well and pump estimated at \$350.

PROPERTY REPORT - Page 3PART IVTHE CONTRACT

19. Will purchasers be required to pay any sum other than actual purchase price in connection with their purchase, or ownership of lots in the subdivision, except taxes, stamps, recording costs and assessments validly imposed by governmental authority? YES, interest at 6% per annum on unpaid balance.
20. Is there a refund privilege? YES
- (a) If yes,
- (1) To whom does it run? Purchaser
  - (2) How long does it last? 60 Days Unconditional -- Two-Year Inspection.
  - (3) What conditions void the refund? Inspection and signing of waiver.
  - (4) What must purchaser do to get refund? Apply in writing.

PART VSUBDIVIDER'S SUMMARY

21. Other pertinent factors that may amplify, explain or add to any answers previously given in this Property Report: This development is designed for recreational cabins for weekend and seasonal use. It is not offered for permanent homesite use.

CARL G. FISHER CORP.,  
Miami, Fla., July 6, 1964.

SUBCOMMITTEE ON FRAUDS AFFECTING THE ELDERLY,  
Senate Office Building,  
Washington, D.C.:

In pursuance of your letter of June 29, 1964, enclosed is a statement from me which you and the subcommittee may use or not use at your discretion.

To answer your probable anticipated question, allow me to say I am, and have been for many years, president of the Carl G. Fisher Corp. The late Carl G. Fisher was recognized as the pioneer developer of Miami Beach. At the present time the Carl G. Fisher Corp. is engaged in a real estate development on the island of New Providence, Nassau, Bahamas, which development is known as Coral Harbour.

From 1926 to 1938 I was an attorney and assistant counsel of the Coca-Cola Co., Atlanta, Ga. From 1938 to 1959 I was a director and executive vice president of the Montauk Beach Co., Inc., a real estate development situated on the eastern tip of Long Island, N.Y. From 1938 to date, I have been president of the Security Trust Co., a fiduciary institution of Miami, Fla.

In my opinion, the well-meaning efforts of many of our States to regulate this rather sprawling industry known as real estate development, is creating a number of difficult and varied problems. When developing real estate outside of the United States and attempting to comply with State regulatory procedures, the problems become compounded, where customs and laws are at variance.

Sincerely yours,

OSCAR F. MILLER.

STATEMENT OF OSCAR F. MILLER, PRESIDENT OF THE CARL G. FISHER CORP., MIAMI  
FLA., JULY 6, 1964

Mr. Marshall M. Criser, chairman of the Florida Installment Land Sales Board, made a statement to the special committee on May 19, 1964, that is so pertinent and profound that I should like to repeat it as a preamble to my brief remarks:

"Paramount protection must be afforded the purchaser who invests his money in real estate relying on the contractual obligation and promises of a developer.

Whether he buys on the site or a mail-order customer, he is entitled to know all pertinent facts pertaining to his purchase."

Unless or until he is choked on the scaffold of governmental regulations, there is a definite place for the ethical developer. Many of our beautiful and ideal communities in the United States today started as speculative ventures by honest idealists or "dreamers," whose pride in their undertaking was equal—if not paramount—to the profit motive of their endeavors. The beautifully laid out city of Coral Gables is but one illustration. It will always be a monument to the vision and planning of George Merrick. The same can be said of the late Carl G. Fisher. There are, of course, many others.

Statutory zoning and political land planning boards are poor substitutes when compared to the visionary creation of a dedicated developer who recognizes an obligation to make the best practical use of his land, both to contemporary buyers as well as to generations yet unborn.

However idealistic a conscientious developer may strive to be, he is still subject to the inexorable laws of economics. Inflation, taxation, and the ever-increasing costs of development circumscribe and, at times, thwart his initial concept of an esthetic, beautifully engineered community. The era of fully developed 1-acre residential plots is about over, for the foregoing reasons. "Congestion" land planning is more the result of economic factors than the greed of developers. The law of the "marketplace" governs. The finished product must meet competitive market conditions.

Next to self-preservation, the "profit motive" is a very deeply ingrained characteristic of human nature. And, real estate—historically—is viewed by millions as a "sure hedge" against inflation. Having thus preconditioned his reasoning, the typical land buyer is ripe and ready to listen to the "profit" representations of the offeror. Now, such representations may be neither fraudulent or untrue, provided, of course, the developer fulfills all of his covenants with respect to the development. No seller of lots can "guarantee" a subsequent profit, but the speculative lot buyer is, in many instances, not endowed with that necessary essential for making money, which is patience.

We have happily progressed in our business ethics from the age-old doctrine of *laissez-faire*—let the buyer beware—to the doctrine of full disclosure. But, what about the mature individual who won't read the representations concerning the product being offered him, or who reads it all and still won't think? I think Mr. Criser pertinently answered this in his remarks to the subcommittee:

"It should not be the role of any governmental agency, whether State or Federal, to become an assurance agency to help those persons who can reasonably help themselves and refuse to do so."

In our aim to help mankind, government—both Federal and State—are, and have been, pursuing a fetish that all ills and aberrations can be cured by law. It seems to characteristically follow a uniform pattern: (1) investigations; (2) legislation; (3) regulation; and (4) strangulation.

The enactment of the Federal Securities and Exchange Act is illustrative. While correcting a number of flagrant abuses, it hasn't stopped speculation, nor prevented tremendous personal losses to investors in securities properly and legally registered under the act. (Who reads prospectuses and registration statements?) But the "regulators"—civil servants and lawyers and accountants are having a "field day."

I fear that efforts to correct a few though flagrant abuses in the land development field are pursuing the same specious doctrine.

The growing number of States, with their different laws, and varying technical registration requirements and regulations is resulting in imposing an unreasonable—almost chaotic—burden on this segment of American business. I predict the mortalities will be high. The bureaucratic delays already encountered in a number of States by developers has frequently raised the question: "What's the use?"

You can regulate to the point of strangulation and still completely miss the noble preambles of the legislative objective.

Before too many "regulated" patients pass into oblivion, it is prayerfully hoped some basis can be found to bring about a uniform real estate development code that will be effective in (1) giving intelligent protection to the purchasing public; (2) requiring developers to comply with practical and reasonable regulations; (3) amending or eliminating many of the technically absurd reporting requirements; and (4) under the laws of comity, eliminate the superfluous burden of registering in a multiplicity of States.

STATEMENT BY FULLER WARREN, ATTORNEY FOR FIRSTAMERICA DEVELOPMENT CORP.,  
HOLLYWOOD, FLA., SUBMITTED IN RESPONSE TO TESTIMONY GIVEN BY MORTON  
PAULSON AND WARREN L. GREENWOOD

First, Paulson is a pliant hireling of a vicious and untruthful so-called newspaper in Daytona Beach, which is owned and profitably exploited by two fanatical eccentrics. This organ of intolerance disguised as a newspaper fought me viciously and unfairly in my 1948 campaign for Governor, and during my 4-year service as Governor, this vicious medium of misinformation published recurring false allegations about me and my administration. It is probably the most prejudiced and unreliable publication in Florida.

Second, Paulson's testimony is a misleading and deceitful bag of half-truths and half-lies. Paulson deceitfully attempted to convey the false impression that University Highlands (owned by Firstamerica Development Corp., of Hollywood, Fla., for which I am attorney) is mainly swampland. He testified under oath that University Highlands includes "more than 12,000 acres." This testimony is not true. It is comprised of 9,420 acres. Next, Paulson's testimony that University Highlands is mainly swampland is not true. The minimum elevation above sea level of this land is 31 feet and the maximum elevation 44 feet. Daytona Beach itself, one of the solidest cities in Florida, is only 10 feet above sea level on the average. That University Highlands is not swampland, as falsely testified by Paulson, is shown by the attached statement of William E. Swope, Jr., registered Florida surveyor of New Smyrna Beach, Fla.

I have personally driven over University Highlands in an automobile and I have flown low over University Highlands in an airplane, and I state categorically that it is not mainly swampland. Any sane person knows that there is some standing water on nearly all Florida land after heavy rains. As this statement is written, the streets of some Miami suburbs are at least ankle deep in water. In 1963 a so-called Daytona Beach newspaper published, after a heavy rainfall, a picture showing a man fishing in water on a downtown street of that city.

Florida has an area of 58,560 square miles. Of this, 4,298 square miles are under water. Thus, about 1 out of every 13 square miles of Florida area is under water. One of Florida's most famous and beautiful cities, Miami Beach, once was almost wholly under water. Some of the most valuable land in Florida had to be drained before it was usable. The vastly valuable land in the Everglades had to be drained before it became valuable. There is probably no residential subdivision in Florida that did not have to be drained before it was suitable for homesites.

Firstamerica sold its land in University Highlands strictly as acreage for investment purposes. All of its brochures and other advertising plainly state that this land was sold as acreage for investment purposes. None of it was advertised or sold for homesites. Most of the land in Florida was originally sold as acreage for investment purposes.

Paulson's shabby insinuation that purchasers of University Highlands acreage were defrauded is refuted by the following facts:

1. Two thousand, nine hundred and thirty-eight persons have purchased acreage in University Highlands. Of these 2,938 purchasers, only 202 have requested their payment be refunded, and it was promptly refunded by Firstamerica Development Corp. Almost none of the purchasers who canceled their contracts claimed that their acreage needed drainage.

2. Approximately 365 purchasers of acreage in University Highlands visited their property last year. Of these 365 purchasers who personally inspected their acreage in University Highlands, only 20 were dissatisfied. Almost none of these 20 purchasers canceled their contract for acreage in University Highlands because they claimed it needed drainage. Perhaps a far bigger percentage of purchasers from the biggest department store in Miami return purchases.

Paulson tried to pick flaws with Firstamerica brochures and other advertising of University Highlands. All of Firstamerica's brochures and other advertising of University Highlands was submitted to the Florida Real Estate Commission and Florida Land Installment Board and fully approved by these official agencies created by the Florida Legislature. All of Firstamerica's brochures and other advertising of University Highlands fully complied with applicable Florida laws.

I challenge Paulson to prove—

1. That Firstamerica made any statement to anybody about University Highlands that was not true.
2. That Firstamerica defrauded any purchaser.



3. That Firstamerica did not make a full refund, strictly in accordance with the contract, to any of the very few purchasers who requested it.

4. That any purchaser of acreage in University Highlands did not get full value for his money.

I also challenge Paulson to prove that he is not the paid hireling of a Daytona Beach hate-sheet parading as a newspaper, and that in giving false and untrue testimony about University Highlands he was not carrying out the spiteful purposes of this alleged newspaper.

One Warren L. Greenwood also gave misleading and inaccurate testimony about University Highlands to a Senate subcommittee on Tuesday of this week. The reading public is entitled to know that Greenwood has a cheek-by-jowl relationship with the so-called newspaper that was behind Paulson's misleading and deceitful testimony. Greenwood was this so-called newspaper's pet candidate for tax assessor of Volusia County in the 1964 Democratic primary. This power-hungry newspaper attempted to foist Greenwood upon the people of Volusia County in order to put into effect a vicious system of property assessment that would have taken away from homeowners much of the benefits of homestead exemption. Despite this so-called newspaper's frantic efforts, Greenwood was humiliatingly defeated by a vote of about 2 to 1. So, he was speaking as a defeated, disgruntled, and rejected candidate when he poured out before a Senate subcommittee a mass of misleading and deceitful testimony about University Highlands.

Greenwood's testimony is particularly misleading because he concealed and withheld from the Senate subcommittee some of the significant and vital facts about some acreage he said he could not locate in University Highlands. On this matter, Greenwood testified as follows: "This parcel was sold to a woman from Syracuse, N.Y., who had intended to use it as a homesite for a house trailer. Needless to say it could never have been used for this purpose and the money spent for it was money lost." Greenwood's testimony that "the money spent for it was money lost" is a barefaced, outright falsehood, utterly devoid of truth. The lady he referred to purchased acreage in University Highlands on August 31, 1962, as an investment. Later, she became dissatisfied with it as an investment and on April 9, 1963, requested that the money she had paid on it be refunded. Nine days later, on April 18, 1963, every dime she had paid on the purchase price of this acreage was fully refunded to this lady.

In view of these facts, Greenwood ought to go before the Senate subcommittee and apologize for testifying that "the money spent for it was lost money," and ask for permission to withdraw this false testimony. It will be interesting to see if he stubbornly sticks to this false statement. The official files and records of Firstamerica Development Corp. support and confirm every statement of fact contained in this statement.

Apparently in a spiteful attempt to discredit Firstamerica, Paulson testified that it "paid about \$170 an acre for the land (University Highlands) 2 years ago and was selling it for \$695 an acre—\$1 down and \$10 a month.

Well, now, what is wrong with that?

Was Paulson complaining because Firstamerica sold this acreage in the installment plan? Isn't nearly everything, except commodities, that anybody purchases nowadays bought on the installment plan? Does anybody pay the full purchase price on the barrelhead for anything, except purchases in a supermarket? Is Paulson against installment buying?

Or, is this hireling of a Daytona Beach spite paper made because Firstamerica sold University Highlands acreage for more than he paid for it? Is there anything wrong about selling land for more than its purchase price? Isn't nearly all Florida land advancing so rapidly in value that it can be sold "2 years" after it was purchased for far more than was paid for it? Is Paulson against the private enterprise profit system? If so, is Paulson acting as a mouthpiece for the so-called newspaper that has expressed a philosophy alien to the American system of free enterprise and honest profit? Will these two twin testifiers, Paulson and Greenwood, come clean by going back to the Senate subcommittee and telling the truth, the whole truth, and nothing but the truth?

NEW SMYRNA BEACH, FLA.

Prepared for : Firstamerica Development Corp.

Property : University Highlands.

Townships 16 and 17 south : range 31 east, Volusia County, Fla.

## FINDINGS

Minimum elevation, 31 feet above sea level. Maximum elevation, 44 feet above sea level.

Average elevation for this property is more than 20 feet above the average elevation for the cities of Daytona Beach and New Smyrna Beach.

This soil consists primarily of fertile sandy loam, bearing pine, and palmetto. There are six lakes on the property. Both primary and secondary highways give access to and through this property.

This property is, in my opinion, suited for development of homesites, business sites, and industrial plant sites. A portion appears suitable for citrus production.

The above findings are the result of my personal survey of the property.

Very truly yours,

WILLIAM E. SWOOPE, Jr.,  
*Registered Florida Surveyor, Registration No. 417.*

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FLORIDA INSTALLMENT LAND SALES BOARD,  
*Tampa, Fla., June 1, 1964.*

Mr. MORT PAULSON,  
*Daytona Beach News,*  
*Daytona Beach, Fla.*

DEAR MORT: As a result of your statement about the lady who fainted and dropped the phone when she was quoted a price of \$20,000 for surveying her property, we contacted the developers in eastern Collier County in an effort to rectify the situation.

Enclosed herewith is a copy of a letter from E. R. Brownell that the developers tell me they will send to each of the property owners on their records. This should go a long way toward rectifying the survey problem, at least.

Also enclosed herewith is a copy of a typical property report<sup>1</sup> we are requiring subdividers in Collier County to give to all prospective purchasers. This report should go a long way toward assuring that the purchasers do get full and fair disclosure.

Sincerely yours,

JOHN W. McWHIRTER, Jr.,  
*Executive Director.*

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E. R. BROWNELL & ASSOCIATES,  
*Miami, Fla.*

*To Collier County Property Owners:*

Because of the demand for surveys of property in eastern Collier County, we plan to provide surveys of small tracts in ranges 33 and 34, Collier County, Fla. This surveying will commence within 30 days, and continue thereafter, until the entire area has been surveyed.

It is our intention, as registered land surveyors, to provide complete and accurate service, including setting and flagging pipes at each property corner, and preparation of a certified sketch.

It is estimated that the cost of these surveys will be as follows: 2½ acres, \$50; 5 acres, \$90; 10 acres, \$125.

This survey program is expected to extend over a period of approximately 18 months, and in order to provide this service at the low rates above mentioned, it will be necessary for us to do your survey at the time that the survey crew is working in the section where you have purchased acreage.

It is our intention to advise you well in advance as to our schedule, so that you may be prepared to authorize us to make your survey.

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<sup>1</sup> See p. 223.

If a survey is not ordered at the time when the survey crew is in your area, the survey will not be available except upon quotation, after request.  
Hoping that we may be of service to you in the near future.

Sincerely,

E. R. BROWNELL,  
*Registered Land Surveyor No. 928, State of Florida.*

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[From the News-Journal Newspapers, June 7, 1964]

How's BUSINESS?

CHEERING NEWS FOR LOT BUYER: SURVEY WON'T COST \$20,000

(By Mort Paulson, Business News Editor)

The Florida Installment Land Sales Board had good news (of sorts) last week for the Miami Beach woman who dropped the telephone in shock when told how much it would cost to survey her small tract of land in eastern Collier County.

The survey won't cost \$20,000 after all. The price will be no more than \$125, and possibly as little as \$50.

It was the Miami Herald which first revealed in April how the unidentified woman called engineer W. R. Wilson in Naples for an estimate. He quoted the \$20,000 figure to stake out her lot because, he said, he would have to go 21 miles from the nearest previously surveyed point, lay out a township of 36 square miles, reduce that to sections of 1 square mile and then find the boundaries of the woman's property. None of the land in the area has ever been surveyed.

The story, which might be amusing if it weren't rather pathetic, was retold in testimony last month before a U.S. Senate subcommittee investigating land frauds. When John W. McWhirter, executive director of the Installment Land Sales Board, heard it, he got in touch with a Miami land surveying firm and sold it on the idea of doing a mass survey of property in Collier County.

Within about 30 days, E. R. Brownell & Associates will start charting the thousands of small tracts in ranges 33 and 34 which were sold by mail for \$10 down, \$10 a month. Owners who want their lots marked off with flagging pipes and drawn up in certified sketches will be charged \$50 for 2½ acres, \$90 for 5 acres, and \$125 for 10 acres.

The program is expected to take 18 months to complete.

So the lady in Miami Beach can rest easier. Now all she has to worry about is draining her property, clearing it, putting in streets, and being able to sell it to somebody who wants to live in the wilds of Collier County.

