

**FILED**

**APR 04 2019**

**DEPARTMENT OF REAL ESTATE**  
By 

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007  
4  
5 Telephone: (916) 263-8670  
6  
7

8 **BEFORE THE DEPARTMENT OF REAL ESTATE**  
9 **STATE OF CALIFORNIA**

10 \* \* \*

11 In the Matter of the Accusation of: ) Case No. H-3152 FR  
12 )  
13 OSBORNE HOMES and ) STIPULATION AND AGREEMENT  
14 ROBERT J. OSBORNE ) IN SETTLEMENT AND ORDER  
15 Respondents. )

16 It is hereby stipulated by and between Respondents OSBORNE HOMES, acting  
17 by a through OSBORNE HOMES' counsel, Edward O. Lear, ROBERT J. OSBORNE, acting  
18 by and through ROBERT J. OSBORNE's counsel, Edward O. Lear, and the Complainant,  
19 acting by and through Jason D. Lazark, Counsel for the Department of Real Estate, as follows  
20 for the purpose of settling and disposing of the Accusation filed on September 27, 2018, in this  
21 matter:

22 1. All issues which were to be contested and all evidence which was to be  
23 presented by Complainant and Respondents OSBORNE HOMES and ROBERT J. OSBORNE  
24 (collectively referred to herein as "Respondents") at a formal hearing on the Accusation, which  
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act  
26 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of  
27 this Stipulation and Agreement In Settlement and Order ("Stipulation and Agreement").

1                   2. Respondents have received, read and understand the Statements to  
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department  
3 of Real Estate in this proceeding.

4                   3. Respondents filed Notices of Defense pursuant to Section 11505 of the  
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
6 Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents  
7 acknowledge that they understand that by withdrawing said Notices of Defense they will  
8 thereby waive their rights to require the Commissioner to prove the allegations in the  
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that  
10 they will waive other rights afforded to them in connection with the hearing such as the right to  
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine  
12 witnesses.

13                   4. Respondents, pursuant to the limitations set forth below, hereby admit that  
14 the factual allegations as set forth in the Accusation filed in this proceeding are true and correct  
15 and the Commissioner shall not be required to provide further evidence of such allegations.

16                   5. This Stipulation and Agreement is made for the purpose of reaching an  
17 agreed disposition of this proceeding and is expressly limited to this proceeding and any other  
18 proceeding or case in which the Department, the state or federal government, any agency of  
19 this state, or an agency of another state is involved.

20                   6. It is understood by the parties that the Real Estate Commissioner may adopt  
21 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalties  
22 and sanctions on Respondents' real estate licenses and license rights as set forth in the below  
23 "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation  
24 and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a  
25 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be  
26 bound by any admission or waiver made herein.

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1                   7. The Order or any subsequent Order of the Real Estate Commissioner made  
2 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to  
3 any further administrative or civil proceedings by the Department of Real Estate with respect  
4 to any matters which were not specifically alleged to be causes for accusation in this  
5 proceeding.

6                   8. Respondents understand that by agreeing to this Stipulation and Agreement,  
7 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10106  
8 of the Business and Professions Code ("the Code"), the costs of the investigation and  
9 enforcement of this case which resulted in the determination that Respondents committed the  
10 violation(s) found in the Determination of Issues. The amount of such costs is \$4,859.50.

11                                         DETERMINATION OF ISSUES

12                   By reason of the foregoing stipulations, admissions and waivers, and solely for  
13 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed  
14 that the following determination of issues shall be made:

15                                                 I.

16                   The acts and omissions of OSBORNE HOMES, as described in the Accusation,  
17 are grounds for the suspension or revocation of the licenses and license rights of OSBORNE  
18 HOMES under the provisions of Sections 10177(d) and 10177(g) of the Code, in conjunction  
19 with Section 10137 of the Code.

20                                                 II.

21                   The acts and omissions of ROBERT J. OSBORNE, as described in the  
22 Accusation, are grounds for the suspension or revocation of the licenses and license rights of  
23 ROBERT J. OSBORNE under the provisions of Sections 10177(d) and 10177(g) of the Code, in  
24 conjunction with Sections 10159.2 and 10177(h) of the Code, and Section 2725, of Title 10,  
25 California Code of Regulations.

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1 ORDER

2 I. AS TO OSBORNE HOMES

3 All licenses and licensing rights of OSBORNE HOMES under the Real Estate  
4 Law are suspended for a period of sixty (60) days from the effective date of this Order; provided,  
5 however, that:

6 1. Thirty (30) days of said suspension shall be stayed upon the condition that  
7 OSBORNE HOMES petitions pursuant to Section 10175.2 of the Code and pays a monetary  
8 penalty pursuant to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension,  
9 for a total monetary penalty of \$1,500.00.

10 a. Said payment shall be in the form of a cashier's check made payable to  
11 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,  
12 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
13 Order.

14 b. No further cause for disciplinary action against the real estate license  
15 of OSBORNE HOMES occurs within two (2) years from the effective date of the Order in this  
16 matter.

17 c. If OSBORNE HOMES fails to pay the monetary penalty in accordance  
18 with the terms and conditions of the Decision, the Commissioner may, without a hearing, order  
19 the immediate execution of all or any part of the stayed suspension, in which event, OSBORNE  
20 HOMES shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid  
21 to the Department under the terms of this decision.

22 d. If OSBORNE HOMES pays the monetary penalty, and if no further  
23 cause for disciplinary action against the real estate license of OSBORNE HOMES occurs  
24 within two (2) years from the effective date of the Decision herein, then the stay hereby  
25 granted shall become permanent.

26 2. The remaining thirty (30) days of said suspension shall also be stayed for two  
27 (2) years upon the following terms and conditions:

1                   a.     OSBORNE HOMES shall obey all laws, rules and regulations  
2 governing the rights, duties and responsibilities of a real estate licensee in the State of  
3 California, and

4                   b.     That no final subsequent determination be made, after hearing or  
5 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
6 effective date of this Order. Should such a determination be made, the Commissioner may, in  
7 his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed  
8 suspension. Should no such determination be made, the stay imposed herein shall become  
9 permanent.

10                                                           II. AS TO ROBERT J. OSBORNE

11                   All licenses and licensing rights of ROBERT J. OSBORNE under the Real Estate  
12 Law are suspended for a period of sixty (60) days from the effective date of this Order; provided,  
13 however, that:

14                                                   1. Thirty (30) days of said suspension shall be stayed upon the condition that  
15 ROBERT J. OSBORNE petitions pursuant to Section 10175.2 of the Code and pays a monetary  
16 penalty pursuant to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension,  
17 for a total monetary penalty of \$1,500.00.

18                                                   a.     Said payment shall be in the form of a cashier's check made payable to  
19 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,  
20 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
21 Order.

22                                                   b.     No further cause for disciplinary action against the real estate license  
23 of ROBERT J. OSBORNE occurs within two (2) years from the effective date of the Order in  
24 this matter.

25                                                   c.     If ROBERT J. OSBORNE fails to pay the monetary penalty in  
26 accordance with the terms and conditions of the Decision, the Commissioner may, without a  
27 hearing, order the immediate execution of all or any part of the stayed suspension, in which

1 event, ROBERT J. OSBORNE shall not be entitled to any repayment nor credit, prorated or  
2 otherwise, for money paid to the Department under the terms of this decision.

3 d. If ROBERT J. OSBORNE pays the monetary penalty, and if no  
4 further cause for disciplinary action against the real estate license of ROBERT J. OSBORNE  
5 occurs within two (2) years from the effective date of the Decision herein, then the stay hereby  
6 granted shall become permanent.

7 2. The remaining thirty (30) days of said suspension shall also be stayed for two  
8 (2) years upon the following terms and conditions:

9 a. ROBERT J. OSBORNE shall obey all laws, rules and regulations  
10 governing the rights, duties and responsibilities of a real estate licensee in the State of  
11 California, and

12 b. That no final subsequent determination be made, after hearing or  
13 upon stipulation, that cause for disciplinary action occurred within two (2) years from the  
14 effective date of this Order. Should such a determination be made, the Commissioner may, in  
15 his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed  
16 suspension. Should no such determination be made, the stay imposed herein shall become  
17 permanent.

18 3. ROBERT J. OSBORNE shall, within six (6) months from the effective date of  
19 this Decision and Order, take and pass the Professional Responsibility Examination administered  
20 by the Department including the payment of the appropriate examination fee. If ROBERT J.  
21 OSBORNE fails to satisfy this condition, ROBERT J. OSBORNE's real estate license shall  
22 automatically be suspended until ROBERT J. OSBORNE passes the examination.

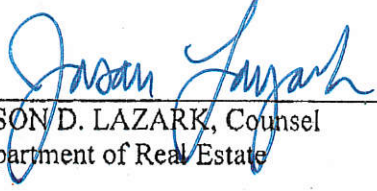
23 III. AS TO RESPONDENTS JOINTLY AND SEVERALLY

24 All licenses and licensing rights of Respondents, are indefinitely suspended unless  
25 or until Respondents, jointly and severally, pay the sum of \$4,859.50 for the Commissioner's  
26 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said  
27 payment shall be in the form of a cashier's check or certified check made payable to the Real

1 Estate Fund. The investigation and enforcement costs must be delivered to delivered to the  
2 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013. prior  
3 to the effective date of this Order.

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5 3-3-19

6 DATED

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JASON D. LAZARK, Counsel  
Department of Real Estate

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9 Respondents have read the Stipulation and Agreement in Settlement and Order  
10 and its terms are understood by Respondents and are agreeable and acceptable to Respondents.  
11 Respondents understand that Respondents are waiving rights given to them by the California  
12 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and  
13 11513 of the Government Code), and Respondents willingly, intelligently, and voluntarily  
14 waive those rights, including the right of requiring the Commissioner to prove the allegations  
15 in the Accusation at a hearing at which Respondents would have the right to cross-examine  
16 witnesses against them and to present evidence in defense and mitigation of the charges.

17 Respondents and Respondents' attorney further agree to send the original signed  
18 Stipulation and Agreement by mail to the following address no later than one (1) week from the  
19 date the Stipulation and Agreement is signed by Respondents and Respondents' attorney:


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1 Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-  
2 7007. Respondents and Respondents' attorney understand and agree that if they fail to return the  
3 original signed Stipulation and Agreement by the due date, Complainant retains the right to set  
4 this matter for hearing.

5  
6 2-27-19  
DATED

  
ROBERT J. OSBORNE  
Designated Officer for Respondent  
OSBORNE HOMES

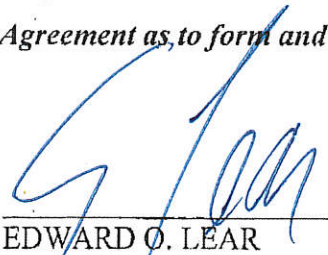
8  
9 2-27-19  
DATED

  
ROBERT J. OSBORNE  
Respondent

11 \* \* \*

12 *I have reviewed the Stipulation and Agreement as to form and content and*  
13 *have advised my client accordingly.*

14  
15 2/27/19  
DATED

  
EDWARD O. LEAR  
Attorney for Respondents  
OSBORNE HOMES and  
ROBERT J. OSBORNE

19 \* \* \*

20 The foregoing Stipulation and Agreement is hereby adopted as my Decision in  
21 this matter and shall become effective at 12 o'clock noon on ~~APR 25 2019~~

22 IT IS SO ORDERED April 3, 2019

24 ACTING REAL ESTATE COMMISSIONER

25  
26   
DANIEL J. SANDRI