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10/7/86

Fourth Supplement to Memorandum 86-89

Subject: Study L-1037 - Estate and Trust Code (Estate Management --  
Commission for Exclusive Listing Broker)

Attached as Exhibit 1 is a letter from attorney Grace Banoff for the Legislative Subcommittee on Estate Planning, Trusts and Probate of the San Diego County Bar Association. The Subcommittee objects to the provision (now in Section 10165(c)(3)) that gives part of the commission to the exclusive listing broker whether or not he or she returns a bid to court. This provision is consistent with what the Commission decided at the June 1986 meeting. Does the Commission wish to reconsider its decision?

Respectfully submitted,

Robert J. Murphy III  
Staff Counsel

## EXHIBIT I

733 Kline Street # 304  
La Jolla, CA 92037  
July 22, 1986

Re: Memorandum 86-52

Study L-1037

Estate and Trust Code, Proposed § 10163(d)

Robert J. Murphy III, Staff Counsel  
California Law Revision Commission  
4000 Middlefield Road, Suite D-2  
Palo Alto, CA 94303-4739

Dear Mr. Murphy:

This letter is submitted on behalf of the Legislative Subcommittee on Estate Planning, Trusts and Probate of the San Diego County Bar Association.

The Subcommittee considers that proposed § 10161 provides a desirable standard for payment for services of real estate brokers, namely, "reasonable compensation for the services." The Subcommittee objects, however, to subdivision (d) of proposed § 10163 which provides that a broker with an exclusive listing is entitled to a commission, determined as provided in § 10161, whether or not he has returned a bid to the Court.

Robert J. Murphy III

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July 22, 1986

Despite its reference to §10161, subdivision (d) of §10163 suggests that the commission of a broker with an exclusive listing who provides little or no other service may well exceed reasonable compensation.

The Subcommittee recommends, therefore, that subdivision (d) of proposed §10163 be deleted.

Respectfully submitted,

Grace K. Banoff

For the Subcommittee

cc: Daniel B. Crabtree, Esq.,  
Subcommittee Chair  
Shirley L. Kovar, Esq.