

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BUREAU OF CORPORATIONS, SECURITIES AND LAND DEVELOPMENT
MOBILE HOME AND LAND RESOURCES DIVISION
LAND SALES

(By authority conferred on the department of commerce by section 19 of Act No. 286 of the Public Acts of 1972, as amended, and Executive Reorganization Order No. 1980-1, being SS565.819 and 16.732 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 338.3201 Definitions; A.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 286 of the Public Acts of 1972, as amended, being S565.801 et seq. of the Michigan Compiled Laws.

(b) "Advertising material" means any of the following forms of communication which is addressed to, or intended for distribution to, prospective subscribers or purchasers and which is not excepted from the definition of "advertising" in section 2(a) of the act:

(i) A pamphlet.

(ii) A circular.

(iii) A form letter.

(iv) A fact sheet.

(v) A sign.

(vi) A radio, television, or telephone presentation, including a radio or television script. Multiple listing books and other publications, the distribution of which is restricted to real estate brokers and salesmen licensed by the state and their employees, shall not be considered to be "advertising" within the meaning of the act or these rules, unless such publications are being used for the purposes of evading the act or these rules.

(c) "Advertising submission" means a single piece of advertising material as defined in subdivision (b) of this subrule.

(2) As used in section 4(k) of the act, "amenities" means those features, other than unimproved natural attributes of common property, which are provided by the developer and which are not necessary for the use of the lots, parcels, units, or interests in the subdivided land.

(3) Terms defined in the act have the same meanings when used in these rules.

History: 1979 AC; 1990 AC.

R 338.3202 Definitions; I to S.

Rule 2. (1) "Interest in land" includes a certificate of participation in, interest in, share, membership in a corporation, profit or nonprofit, whose purpose is to develop or make available real property and improvements thereto for recreational, vacation or second home site unless such interest, certificate of participation, share or membership is registered and in compliance with Act No. 265 of the Public Acts of 1964, as amended, being SS451.501 to 451.818 of the Michigan Compiled Laws, unless such interest, certificate of participation, share or membership plan is adopted for the purpose of evasion of the act.

(2) "Person authorized to appear to represent a developer" means a person who is an employee of a developer, the developer, his agent or an attorney at law who files an appearance on behalf of a developer.

(3) "Subdivision" and "subdivided lands" includes condominium projects consisting of 10 or more units and any portion thereof not included within the terms of Act No. 229 of the Public Acts of 1963, as amended, being SS559.1 to 559.31 of the Michigan Compiled Laws.

History: 1979 AC.

R 338.3204 Documents.

Rule 4. (1) A document to be filed with the department shall be typewritten or in legible handwriting on 1 side of the paper only. One copy of each exhibit or document shall be submitted, unless the director requires more than 1 copy. A document shall be reduced or folded to a size not to exceed 8 1/2 by 13 inches. All papers filed pursuant to these rules shall become part of the department's records.

(2) The use of verified photographs as part of documentation is permitted, except that the photographs shall not be permitted in lieu of proper legal descriptions of real property or other required written documents.

(3) The use of verified copies of original documents is permitted.

(4) An affidavit or affirmation as prescribed in the department forms shall be executed for each of the following documents; statement of record; partial statement of record; consolidation registration; registration amendment; annual registration renewal; application for advertising approval; partner, officer, director or principal disclosure; consent to service to process; and broker's application.

History: 1979 AC.

R 338.3206 Fees.

Rule 6. The following fees shall accompany documents submitted for filing:

(a) Registration fee of \$250.00 plus \$1.00 for each lot, unit, parcel or interest included in the application.

(b) Consolidation registration fee of \$200.00 plus \$1.00 for each additional lot, unit, parcel or interest added to the original application.

(c) Annual registration renewal fee of \$100.00 plus 25 cents for each lot, unit, parcel or interest included in the application.

(d) Advertising submission fee of \$15.00 for each submission, which was not submitted with an original registration or a consolidation, except that a fee for a classified ad of 2 column inches or less shall be 25 cents.

History: 1979 AC.

R 338.3208 Address of director.

Rule 8. The official address of the director for delivery and receipt of all mail, telegrams, information, filing, registration, and other material required by the act or these rules is as follows:

Michigan Department of Commerce

Corporation & Securities Bureau

6546 Mercantile Way

P.O. Box 30222

Lansing, Michigan 48909

History: 1979 AC; 1990 AACS.

R 338.3218 Modification of rules.

Rule 18. The director, in order to achieve the purpose intended by the

act, may add to, waive, modify or otherwise condition or change any requirement created by these rules in case of particular factual circumstances.

History: 1979 AC.

R 338.3219 Rescission of emergency rules.

Rule 19. The emergency rules promulgated by the department and filed with the secretary of state on April 26, 1973, are rescinded.

History: 1979 AC.

R 338.3220 Amendment to comply with rules.

Rule 20. (1) An application for registration for which a notice of filing has not been issued by the effective date of these rules shall be amended to comply with these rules.

(2) Registrations in effect on the effective date of these rules shall be amended upon a consolidation registration or the annual renewal, whichever comes first.

History: 1979 AC.

PART 2. EXEMPTIONS FROM THE ACT

R 338.3221 Statutory exemptions.

Rule 21. Except as otherwise provided by rules promulgated by the department as authorized by the act, the act shall not apply to offers or dispositions of interests in land specified in sections 4 and 5 of the act unless the method of disposition is adopted for the purpose of evading the act.

History: 1979 AC.

PART 3. REGISTRATION OF NONEXEMPT SUBDIVIDED LANDS

R 338.3231 Statements of record and property reports; contents and filing.

Rule 31. (1) A developer shall apply for a registration of nonexempt subdivided land by means of a statement of record and property report in accordance with the act and this part.

(2) A statement of record shall be made on the form supplied by the department. A property report shall be in the form prescribed by the department. They shall be fully executed.

(3) A statement of record and property report shall include, but not be limited to, the information required by sections 6 to 10 of the act. The property report shall include on its face the following language in 12point bold capital type:

"THE DEVELOPER DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN THE OFFER TO SELL, SALE, FINANCING OR OTHER DISPOSITION OF LAND INCLUDING THE MAKING AVAILABLE OF IMPROVEMENTS OR OTHER AMENITIES OF THIS SUBDIVISION."

(4) A statement of record and a property report shall be filed with the director by personal delivery at, or certified mail to, the address set forth in R 338.3208.

(5) The registration fee shall accompany a statement of record and property report and shall be paid by check or money order payable to the "State of Michigan."

History: 1979 AC.

R 338.3232 Statements and reports; effective dates.

Rule 32. (1) The property report shall be considered a part of the statement of record for the purpose of determining the effective date and suspension of the effective date.

(2) The effective date of the statement of record shall be no later than 60 days after the date of notice of filing which shall be issued to an applicant within 10 days of receipt of the application by the department unless:

(a) The applicant has consented in writing to a delay.

(b) The department has entered an order of rejection with notice of specific deficiencies therein.

(c) If any amendment to the statement of record is filed before the time of the registration, the statement of record shall be considered to have been filed when the amendment was filed, unless the amendment is filed with the consent of or pursuant to order of the department. In such case, the amendment shall be considered as filed as of the original notice of filing date.

History: 1979 AC.

R 338.3233 Statements; rejection.

Rule 33. (1) A notice of deficiency and order of rejection with respect to a statement of record or an amendment may be issued by the director within 45 days after the date of notice of filing, if before its effective date the director has reasonable grounds to believe that the statement of record or amendment is on its face incomplete or inaccurate.

(2) An order of rejection with respect to a statement of record may be issued to an applicant if it appears to the director that the developer has attempted or made intentional misrepresentations, or concealed or omitted material facts in the statement, or has attempted to evade or has evaded the provisions of the act, or has made misleading or deceptive statements. A developer may correct the particulars specified in an order of rejection within 15 days after receipt of the order unless otherwise extended by the department.

History: 1979 AC.

R 338.3234 Statements and reports; amendment, suspension, and consolidation.

Rule 34. (1) An amendment to an effective statement of record shall be filed within 30 days after a change which affects a material fact. If the department considers it necessary or appropriate in the public interest or for the protection of purchasers, it may suspend the certificate of registration until the amendment is considered registered and an intent to reject is entered or a delay agreed upon.

(2) If a developer registers additional subdivided lands to be offered for sale, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for sale under the same promotional plan and the property report shall be amended to include the additional lands so registered. The consolidation of registration of additional subdivided lands shall be considered registered after 30 days unless an intent to reject is entered with a specific statement of deficiencies within 30 days thereof or a delay is agreed upon.

(3) If, in connection with lots previously offered for sale and covered by an effective statement of record, the developer intends to offer additional lots as part of a common promotional plan, either a new or a consolidated statement shall be filed. The developer shall answer specifically each question in the statement and submit a new property report. The developer shall not incorporate by reference answers to questions in the previous filing. Supporting documentation may be incorporated by reference where it applies to both the original filing and to the additional lots to be offered. In all other respects, the consolidated statement shall conform to the requirements of an initial statement filed in accordance with these rules.

History: 1979 AC.

R 338.3235 Registration under other law.

Rule 35. (1) A registration of a subdivision in effect under any other act of this state shall remain in full force and effect, except that within 30 days after the effective compliance date of the act in section 35, the developer shall comply with the additional requirements of the act.

(2) If a statement of record has been filed with and accepted by the office of interstate land sales registration, United States department of housing and urban development, the department may accept a copy of same as part of the disclosure requirements under the act if the material is accompanied by a statement under oath by the developer, certifying that the copies are copies of all documents upon which the federal statement of record was based and stating the effective date of the federal filing. An addendum form prescribed by the department shall be fully executed and submitted to the department in addition to the certified federal statement of record.

History: 1979 AC.

R 338.3236 Investigations and certificates of registration.

Rule 36. (1) After receipt of a properly executed statement of record, the department shall examine and investigate the matters therein in accordance with sections 13 and 20 of the act.

(2) After inquiry and examination, the department shall issue a certificate of registration if the requirements of the act and these rules are met. The department shall also approve the form of the property report.

History: 1979 AC.

R 338.3238 Annual reports.

Rule 38. A developer shall file an annual report in the form prescribed by the department within 30 days after each annual anniversary date of an order registering subdivided lands. The report, as a minimum, shall reflect any material changes in information contained in the original statement of record and property report. An annual report of a consolidated registration is permitted within 30 days after the annual anniversary date of the consolidated registration. Payment of the fee required by R 338.3206 shall accompany the annual report.

History: 1979 AC.

R 338.3239 Termination of registration.

Rule 39. (1) The registration of a project in good standing may be terminated if all of the following requirements have been met:

(a) All lots, parcels, units, or interests have been sold or, in the case of an out-of-state project, no further sales are to be made to Michigan residents.

(b) All purchasers have received deeds or the deeds have been placed in trust with a bank, savings and loan, or title insurance company pending completion of the purchaser's contract.

(c) All promised improvements and amenities are complete.

(2) An application for termination shall be made in the form of an affidavit. The affidavit shall verify compliance with this rule.

(3) An inspection of the property by the administrator may be required for approval of the application for termination.

History: 1990 AACs.

PART 4. PROTECTION OF PURCHASERS

R 338.3241 Unfair acts and practices; documents.

Rule 41. It is unfair for a person to use a contract, agreement, deed, option or other evidence of disposition of lands under the act which contains provisions whereby a purchaser or prospective purchaser agrees, without his written consent thereto in a separate document or by conspicuous type in any such instrument:

(a) To waive a right afforded by the act; the interstate land sales full disclosure act (82 Stat. 590; 15 U.S.C. S1701 et seq.) and the consumer credit protection act, commonly known as the federal truth in lending act, and any rules or regulations promulgated thereunder.

(b) To assume all risk of loss to the property without title passing to the purchaser or actual possession being in the purchaser.

(c) To a prior or subsequent sale of the optioned or purchased property.

(d) To waive as against an assignee of the developer, a mortgagee or subsequent holder, a claim or defense arising out of the transaction that the purchaser would have against the developer.

(e) To forfeit all prior payments upon default.

(f) To acceleration of the unpaid balance of a contract upon default.

(g) To lose possession of the property without notice of and a prior hearing in a court of competent jurisdiction.

(h) To waive a right to redeem the property after default.

(i) That an assignee, mortgagee or subsequent holder of the developer is not obligated to perform as to the purchaser.

(2) It is unfair for a developer, his agents, servants, employees or others acting on his behalf:

(a) To offer to or induce a purchaser to execute a document, paper or writing without all spaces filled in or inapplicable spaces clearly stricken.

(b) To alter or deface a document, paper or writing without the knowing, intelligent and voluntary consent of the parties thereto.

History: 1979 AC.

R 338.3242 Unfair acts and practices; discrimination.

Rule 42. It is unfair for a developer, his agents, servants, employees or others acting on his behalf to discriminate on the basis of race, color, religion, sex or national origin in an offer to sell, sale, financing or other disposition of land including making available the use of all improvements or other amenities of the existing or proposed subdivision.

History: 1979 AC.

R 338.3243 Unfair acts and practices; general.

Rule 43. (1) It is unfair for a person to use a method of rebate of interest or finance charge which requires or results in a purchaser paying a greater amount of interest or finance charge upon prepayment than he would have paid if he had financed for that shorter period up to the time of prepayment.

Example: Use of "rule of 78's" or "sum of the digits" method.

(2) It is unfair for a developer, his agents, servants, employees or others acting on his behalf:

(a) To make a promise with no present intent to perform it.

(b) To fail to reveal to the purchaser or prospective purchaser all terms, conditions, notices and amounts of any contract, agreement, option, deed, property report or other evidence of the purchaser's indebtedness.

(c) To substitute another lot, unit, parcel or interest in land for that purchased or optioned without the knowing, intelligent and voluntary consent thereto by the purchaser.

(3) It is unfair for a developer to fail to afford to a purchaser all rights, privileges or advantages that are represented or implied are available to a purchaser as the result of the purchase.

History: 1979 AC.

R 338.3251 Deceptive acts and practices.

Rule 51. The methods, acts, and practices listed in R 338.3252 to R 338.3259 are deceptive and a developer, his agents, servants, employees or others acting on his behalf shall not engage in them.

History: 1979 AC.

R 338.3252 Deception; approvals and memberships.

Rule 52. (1) Representing that the developer, his agents, servants, employees, or others acting on his behalf, have sponsorship, approval or certification they do not have.

(2) Representing that land has been inspected by the department or received approval or both whether in fact it has or has not.

(3) Representing the necessity, desirability or the advantage to a prospective purchaser of dealing with a developer, by a false connection with or endorsement by the government, a nationally known organization or membership in a professional association.

History: 1979 AC.

R 338.3253 Deception; availability of land and utilities.

Rule 53. (1) Representing the availability of land without clearly and conspicuously disclosing in immediate conjunction therewith any limitation on availability, location or quantity.

(2) Using the developer's personnel to repeatedly announce that lots are being sold when in fact this is not the case or to make false repetitive announcements of the same lot being sold.

(3) Representing a utility service as "available" or some similar representation, unless such utility service is installed in the subdivision and ready for use or use is assured under financial arrangements made for installation and such arrangements are disclosed.

History: 1979 AC.

R 338.3254 Deception; access to subdivisions.

Rule 54. (1) Representing or implying that a subdivision is restricted to owners, purchasers or their families by means of guards or private roads or facilities, the use and enjoyment of which require special identification, unless this is true.

(2) Representing that a prospective purchaser has to pay a refundable or nonrefundable temporary membership fee in order to visit, tour or inspect a subdivision for the reasons that such is restricted to members only when in fact such offer is made systematically and on a regular basis to all persons solicited for purchase.

History: 1979 AC.

R 338.3255 Deception; visits and free goods and services.

Rule 55. (1) Failing to reveal in an offer to induce a person to visit, inspect, or tour a subdivision all terms, conditions, or prerequisites that have to be met by any person.

(2) Offering or representing that goods or services are "free" without clearly or conspicuously disclosing in immediate conjunction with the offer or representation all terms, conditions, or prerequisites to the receipt, retention, or use of the goods or services.

History: 1979 AC.

R 338.3256 Deception; price, value, and credit.

Rule 56. (1) Representing or implying that a prospective purchaser has to act quickly to purchase land at a savings since the price thereof is about to increase unless in fact a decision has been made to increase the price and that the increase does take effect.

(2) Representing that the price of land to a prospective purchaser is a discount or reduction from a regular price unless in fact the represented regular price was the customary and regularly sold at price for a reasonable prior period of time.

(3) Representing or suggesting that the price of land is a savings when compared to other prices sold at by competitors of the developer unless such other land with the higher price has the same characteristics, attributes and qualities of the offered or advertised land and such compared to prices are not fictitious. Example: "Lake front lots this week \$5,000. Compare at \$8,000."

(4) Failing to reveal the cost of the land to the developer where it is represented the purchaser is making an investment, which will increase in value due to the sole efforts of the developer.

(5) Representing that a purchaser is making an investment in real estate which will increase in value as the result of the effort of the developer unless this is true.

(6) Offering or representing that credit availability is easy when in fact it is not.

(7) Offering or representing that credit terms are easy when in fact they are not.

(8) Misrepresenting or causing others to misrepresent the interest rate or finance charge as other than it actually is.

History: 1979 AC.

R 338.3257 Deception; repurchases; refunds; consideration for referrals.

Rule 57. (1) Representing to a purchaser or prospective purchaser that the developer will buy back, resell, list, or otherwise dispose of purchased property unless this is true.

(2) Representing or inducing a purchaser or prospective purchaser to buy land or execute a contract, agreement, option for a consideration, or other evidence of indebtedness on the basis that if the purchaser is not satisfied a refund will be made, unless this is true.

(3) Representing or promising a commission, bonus, discount, reward, override, or prize for referring other purchasers to the developer, where such promise or representation is similarly made to those referred.

History: 1979 AC.

R 338.3258 Deception; promotion schemes; documents.

Rule 58. (1) Representing that a developer, salesman, agent, servant, employee or other acting on behalf of a developer is conducting a survey, contest, poll or other similar inquiry, when in fact it is a systematic marketing approach in an effort to sell property.

(2) Representing to a prospective purchaser that he is specially selected when in fact he is not.

(3) Obtaining a prospective purchaser's signature to a contract, agreement, option or other evidence of indebtedness by representing it is only a reservation, receipt or temporary membership certificate.

(4) Failing to clearly and conspicuously inform a purchaser that a contract, promissory note or other evidence of indebtedness could be assigned.

History: 1979 AC.

R 338.3259 Deception; miscellaneous.

Rule 59. (1) Misrepresenting the necessity, desirability or advantage to a prospective purchaser of dealing with a developer by misrepresenting a developer's alleged advantages of size.

(2) Offering or representing to sell or lease lots, units, parcels or interests in land which in truth the developer does not intend or want to sell or lease.

(3) Knowingly making a statement or illustration which creates a false impression of the kind, quality, nature and value of the land offered when later, the purchaser may be routinely switched from the advertised land to other land.

(4) Failing to disclose clearly and conspicuously the use to which contiguous land has been put where the disclosure is material to the use of the lot or subdivision in light of the positive representations made.

(5) Engaging in any other method, act or practice which has the capacity or tendency to deceive.

History: 1979 AC.

PART 5. ADVERTISING AND SALES PROMOTIONS

R 338.3261 Effect of standards.

Rule 61. Precise rules to determine that material is misleading, or that a plan of sale or development lacks adequate safeguards and assurances to prospective purchasers, cannot be made which will be applicable in all situations. Without an intent to limit its consideration or determination to the general standards set forth in these rules and without an attempt to compel any particular form or method of advertising, promotion, development or sale of subdivided lands, the standards in R 338.3262 to R 338.3270 are guides for a person preparing to file advertising material and for department personnel. These standards are not considered to be all inclusive for the department in evaluating advertising to determine whether it is false, deceptive or misleading and fails to make full and fair disclosure within the intent of the act and these rules.

History: 1979 AC.

R 338.3262 General standards.

- Rule 62. (1) Claims and representations contained in advertising shall be accurate and provable.
- (2) Advertising shall not misrepresent facts or create misleading impressions.
 - (3) Advertising shall not contain a statement which, though true, implies an untruth.
 - (4) Advertising shall not make a derogatory or unfair reference to competitive developments, subdivisions, or properties.
 - (5) Advertising shall not reprint published material unless information contained in the reprint is representative, truthful, relevant, and pertinent to the property being offered.
 - (6) Advertising shall not contain a statement, photograph or sketch portraying the use to which land can be put unless the land can be put to such use without unreasonable cost.
 - (7) Advertising shall not contain an asterisk or any other reference symbol as a means of contradicting or substantially changing a previously made statement or as a means of obscuring a material fact.
 - (8) Advertising shall not use a name or trade style which implies that the advertiser is a nonprofit research organization or public bureau or group, when such is not true. Advertising of such an organization is prohibited when the true nature of the plan of sale or ownership is misrepresented or concealed.
 - (9) Maps, plats, or representations shall clearly indicate the estimated date that development will be completed. If completion dates are over a period of years, then a series of shadings, outlines or coding may be used to indicate estimated dates of completion.

History: 1979 AC.

R 338.3263 Distances.

- Rule 63. (1) Where a community is referred to, advertising shall state the location of the subdivision and the mileage from the approximate geographical center of the subdivision in road miles to the approximate downtown or geographical center of the community.
- (2) Where an amenity or improvement is referred to, advertising shall disclose with reasonable specificity, the location of such amenity or improvement in relation to the size and location of the subdivision.
 - (3) Advertising shall not use such terms as "minutes away," "short distance," "only miles," "near" and terms of similar import to indicate distance, unless the actual distance in road miles is used in conjunction with the terms.

History: 1979 AC.

R 338.3264 Sketches and pictures.

Rule 64. (1) Advertising shall not contain an artist's sketch to portray a proposed improvement or nonexistent scene without an indication that the portrayal is an artist's sketch and that the improvement is

proposed or the scene does not exist. An artist's conception of an existing improvement or scene shall be representative and state that the rendering is an artist's conception.

(2) Advertising shall not contain before and after pictures for comparative purposes without the analysis of the pictures.

History: 1979 AC.

R 338.3265 Improvements and facilities.

Rule 65. (1) Advertising of an improvement to a subdivision or any specific part thereof which is not completed shall not be made unless it is stated in unmistakable terms that the improvement is merely proposed or under construction and the estimated date of the promised completion indicated.

(2) Advertising shall not describe land as a homesite or lot if potable water is not available. Advertising shall give reasonable assurance that a septic tank will operate or a sewer system is in existence unless facts to the contrary are included in each advertisement pertaining to that property.

(3) Advertising shall not contain a statement, photograph or sketch relating to a facility for recreation, sports or other convenience not presently in existence, unless it is stated that the facility is not on the land and the distance thereto in miles is given, or that the facility is merely proposed.

(4) Advertising shall not refer to a governmental facility, wherever located, unless money has been budgeted for actual construction of the facility and is available to the public authority having the responsibility of construction, or an actual disclosure of the existing facts concerning a governmental facility is made.

(5) Advertising shall not refer to a governmental facility under study, unless it is fully disclosed that the facility is merely proposed and under study and no reference is made to the location or route of the facility until such has been decided by the responsible public authority.

History: 1979 AC.

R 338.3266 Roads, streets, waterways, and floods.

Rule 66. (1) Advertising which refers to "roads" and "streets" shall make affirmative disclosure as to the nature of the roads and streets, such as paved, gravel or dirt. To be described as improved or paved, a road and a street shall be constructed and surfaced according to county, city or other acceptable authority specifications or satisfactory guarantees made for such construction and surfacing.

(2) Advertising shall not refer to property as waterfront unless the property being offered actually fronts on a canal or other body of water.

(3) Advertising which uses the term "canal" shall disclose the approximate width and approximate depth of water in the canal and whether or not it provides access to open water.

(4) Advertising shall disclose if the land or any part of it is regularly 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 department.

History: 1979 AC.

R 338.3267 Access and easements.

Rule 67. (1) Advertising of land which does not have available legal access to the purchaser shall disclose that fact and its effect.

(2) Advertising which refers to legal access shall be accompanied by phraseology to indicate whether the access is usable as a passage for conventional automobiles.

(3) Advertising shall not refer to the existence of a road easement or a road right-of-way unless the 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 where the property is located.

(4) Advertising which indicates the size of the tract offered shall indicate the size and kind of all easements to which the property may be subject. If the property is subject to easements which are

unusual in size, this fact shall also be noted. Maps, plats, representations or drawings shall indicate the dimensions of the tract and all easements.

History: 1979 AC.

R 338.3268 Consideration; prices and values.

Rule 68. (1) Land shall not be advertised as "free" if the prospective purchaser is required to give any consideration therefor. Land shall not be advertised for "closing costs only" when these costs are substantially more than normal or when additional land has to be purchased at a higher price or to render the land usable.

(2) Advertising which refers to a property exchange privilege shall state clearly any qualification concerning the exchange privilege.

(3) Advertising shall not refer to a pre-development sale at a lower price because the land has not yet been developed unless there is a plan of development and a subdivision plat has been recorded, or reasonable assurance is available that the plan will be completed.

(4) Advertising shall not indicate a discount on property that appears to effect a price reduction from the advertised price. A discount may be given for quantity purchases, cash, larger payments or for any reasonable basis. The purpose of this standard is to eliminate the use of fictitious pricing and illusory discounts.

(5) Advertising shall not contain false statements concerning future price increases by the subdivider.

(6) Advertising shall not make predictions of specific or immediate price or value increases of lots, parcels, or units of advertised lands when the subdivider does not have control over such price increases.

(7) Advertising shall not compare land values unless it is clear who is making the comparison and it is relevant and fair.

History: 1979 AC.

R 338.3269 Taxes and assessments.

Rule 69. (1) Advertising containing statements regarding taxes and the amounts thereof shall employ the latest available figures.

(2) Advertising referring to the purchase price of land shall also include any additional compulsory assessment or cost to the prospective purchaser that are known, or should have reasonably been known, at the time of disposition.

(3) Advertising referring to a promised improvement for which a prospective purchaser will be assessed shall disclose that fact.

History: 1979 AC.

R 338.3270 Miscellaneous standards.

Rule 70. (1) Advertising shall not represent that the land offered for sale may be subdivided or resubdivided unless it includes necessary and relevant information regarding the estimated cost of future subdividing.

(2) Advertising shall not infer or imply that the subdivider will resell or repurchase the land being offered at some future time unless the subdivider has agreed with the department to resell or repurchase land for or on behalf of purchasers and has given reasonable assurances to the department to demonstrate his ability to perform this agreement.

(3) Advertising which refers to oil, gas, or mineral rights shall disclose all pertinent facts pertaining to such rights.

(4) Advertising which refers to gifts, benefits, or vacation certificates shall disclose the terms and conditions of offers therein in conspicuous print.

(5) Advertising may contain the unqualified term "development" only to describe a subdivision, the plat of which has been recorded.

(6) Advertising shall not contain the terms "guarantee or guaranteed refund" unless the refund is unconditional.

(7) A newsletter giving information as to a place, facility or event more than 10 miles distant from land involved, or make a prediction applicable to an area greater than the land involved, as for instance, future population of an entire state, shall carry a disclaimer as follows:

"Information contained in this newsletter is general to (name of state). Property for sale by (development company) may not be affected at any foreseeable time by any place, facility, event or predication described."

(8) Advertising which forecasts a future event or population trend shall be by a qualified person and pertinent to the offering.

History: 1979 AC.

R 338.3281 Visitation programs; general disclosures.

Rule 81. (1) The terms, conditions and prerequisites to use and enjoyment of a visitation program shall be disclosed in promotional material, advertising, and on any certificate. This includes, but is not limited to, the developer's participation in the program, the nature of any gift or other benefit, including, but not limited to, what the prospect will actually receive, when he will receive it, the obligation he is under, if any, and the fact, if true, that the participant is to pay his own transportation, food, lodging or other incidental expenses, and all other conditions or limitations placed on the gift or benefit.

(2) Material for a visitation program, whether written, television script, or radio presentation, shall disclose, in immediate conjunction with the offer of a visit to land, the expenses of which will be paid in whole or in part by others, that a person enjoying the visit will be subjected to a sales promotion for land unless, if such is not true, there is a disclosure that a person is not obligated nor required as a term or condition of the use and enjoyment of the visit, to participate in, listen to or otherwise be subjected to a sales promotion for land and such is in fact honored.

History: 1979 AC.

R 338.3282 Visitation programs; specific disclosures.

Rule 82. (1) In the promotion of a visitation plan, the developer or his representative shall clearly identify themselves.

(2) The names of certificate companies with whom the developer has contracted, if any, shall be disclosed.

(3) Promotional material including advertising and certificates shall disclose the identity of hotels, motels, places of lodging, transportation companies, restaurants, attractions, or other similar establishments which honor, subscribe to, or participate in the visitation plan.

(4) A certificate or other written material evidencing the rights of a donee, beneficiary, or certificate holder shall contain a fixed expiration date for the rights.

History: 1979 AC.

R 338.3283 Visitation programs; guarantees.

Rule 83. (1) Promotional material for a visitation program, including advertising and certificates, shall disclose the guarantees made by a developer to insure a participant's use and enjoyment of a visit.

(2) A program which uses as a part thereof the granting or giving of a discount coupon or other similar discount program shall disclose in immediate conjunction therewith the guarantees that have been made to insure the participant's use and enjoyment thereof.

History: 1979 AC.

R 338.3284 Visitation programs; procedures.

Rule 84. (1) A visitation program shall be described as part of the statement of record or described separately as advertising material.

(2) A certificate to be used in a visitation program shall be submitted to the department and shall meet the advertising standards as set forth in this part.

(3) The department shall be advised of a material change, including identity of the certificate companies, hotels or facilities before institution of the material change.

(4) When a participant in a visitation program is obligated to listen or be subjected to a land sales promotion, the developer shall supply a copy of the property report and forms of agreement as provided in the act.

History: 1979 AC.

R 338.3291 Promotional plans; general provisions.

Rule 91. The department will not enter an order registering a subdivision and will consider the general promotional plan false and misleading, and the plan of sale or development lacking adequate safeguards and assurances, if:

(a) The fee title holder is not bound by part 6.

(b) The plat or plan of the subdivision by which lots, tracts or parcels are offered for sale has not been duly recorded in the plat records of the county where the lands are located if required by law and the streets, roads, alleys, easements, parks and other public areas shown thereon have not been dedicated to the appropriate private or public authority. Sales maps which are not so recorded may be used if they are not designed to deceive or would not tend to deceive prospective purchasers, state in conspicuous print that they are maps only and not plats, and include additional disclaimers in conspicuous print to prevent misleading purchasers.

(c) The contract or agreement given to a prospective purchaser by the developer upon payment of the first money by the prospective purchaser is not sufficient in form to immediately vest an interest in the land in him and to afford notice to all persons of his interest by recordation thereof.

(d) The developer does not provide adequate safeguards, approved by the department, reasonably assuring contract purchasers who have complete refund privileges for more than 30 days, that if the refund privileges are exercised the developer will be in a position to refund in accordance with his agreement.

History: 1979 AC.

R 338.3292 Promotional plans; encumbrances on land and contracts.

Rule 92. The department will not enter an order registering a subdivision and will consider the general promotional plan false and misleading and the plan of sale or development lacking adequate safeguards and assurances, if:

(a) Title to the subdivision is so encumbered that the lands to be offered cannot be used for any purpose expressly or impliedly represented in the plan of sale and advertising without the removal of the encumbrance, unless adequate safeguards are established reasonably to assure the encumbrance will be removed before the time the subdivider promises to deliver the interest contracted for.

(b) The developer allows a mortgage, lien or encumbrance to be placed and remain on the subdivision, or a part thereof, other than specific lots upon which improvements are constructed, and other than those in existence at the time of registration of the subdivision, without notifying the department and furnishing adequate safeguards reasonably assuring each purchaser that upon payment of the purchase price provided in the sales agreement, title to the property will be delivered with all promised improvements as contracted. The safeguards shall be subject to review and approval by the department at its discretion.

(c) The owner transfers, assigns, sells, pledges, or gives as collateral security, sales contracts on a subdivision without notice and submission to the department of evidence of adequate safeguards to reasonably assure that each contract purchaser, upon payment of the purchase price provided

in the sales agreement, will receive the title to the lands as promised and improvements, if any. The safeguards shall be subject to review and approval by the department at its discretion.

History: 1979 AC.

R 338.3295 Promotional plans; group meetings.

Rule 95. (1) If an advertising or promotional plan includes promotional group meetings, the standards in this rule shall be used as a guide by the director in determining whether or not the nature and manner of conducting the meetings are such as to disclose fully all significant facts concerning the subdivision.

(2) The department shall be notified in writing of the meeting not less than 15 days before its date. Notice shall consist of the date, hour, and place of the meeting and the names of the developer and real estate broker involved.

(3) The meeting shall be conducted in a place open to department personnel for inspection and monitoring.

(4) Department personnel as authorized by the director shall have free access to the meeting and sales presentations.

(5) The advertising in the meeting is subject to the standards of advertising contained in these rules.

(6) A false or dummy buyer shall not be used to initiate sales or buying climate or for any other purpose, nor shall it be indicated that lots, parcels, units or interests have been sold, when in fact, they have not been sold.

(7) An oral statement to a prospective purchaser at the meeting shall be completely consistent with written material approved by the department.

(8) A prospective purchaser who expresses a desire or intent to leave the meeting at any time during or after the meeting may not in any manner be impeded from departing, pressured to remain or denied any benefit promised in exchange for attending the meeting, including any transportation.

History: 1979 AC.

R 338.3301 Inferences; effect.

Rule 101. An 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 developer reasonably to guarantee existence of the thing inferred. Advertising and promotional material will be judged on the basis of the positive representation contained therein and the reasonable inferences to be drawn therefrom. Unless the contrary affirmatively appears in advertising or promotional material, the inferences set forth in R 338.3302 to R 338.3304 will be assumed to have been intended.

History: 1979 AC.

R 338.3302 Inferences; homesites and building lots.

Rule 102. When homesites or building lots are advertised without qualification the inferences are that:

(a) The lots are usable for such purpose without any further improvement or development by the prospective purchaser.

(b) There is an adequate potable water supply available.

(c) The lands have been approved for installation of septic tanks or that an adequate sewage disposal system is installed.

(d) No further major draining, filling, or sub-surface improvement is necessary to construct dwellings, except for reasonable preparation for construction.

(e) The individual homesites or building lots are accessible by automobile without additional expense to the purchaser over an existing right-of-way.

(f) No other fact or circumstance exists to prohibit use of the lots as homesites or building lots.

History: 1979 AC.

R 338.3303 Inferences; other lands.

Rule 103. When lands are advertised without qualification as usable for a particular purpose other than homesites or building lots, the inference is that the land is immediately accessible and usable for such purpose by purchasers without the necessity for draining, filling or other improvement before putting the lands to use for such purpose, except for reasonable preparation for construction, and that no fact or circumstance exists to prohibit use of the lands for such purposes.

History: 1979 AC.

R 338.3304 Inferences; miscellaneous.

Rule 104. (1) 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 before purchase.

(2) When a recreational facility, improvement, accommodation, or privilege is advertised, the inference is that it is on the land at the present time and available to the purchasers of lots at no additional expense, unless otherwise specified.

(3) When an improvement is advertised, the inference is that it is completed, unless it is advertised as proposed, and sufficient guarantees have been made for its completion.

History: 1979 AC.

R 338.3307 Presumptions.

Rule 107. It will be presumed by the director that:

(a) Advertising filed for approval will be that used 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 department until changes in advertising for this purpose are submitted to and approved by the department.

(b) Advertising published, disseminated or broadcast by or in behalf of an owner or entity owning more than 1 subdivision is being used to offer lands in all subdivisions registered by that owner or entity unless an express limitation is made by that owner or entity to the department or by the department.

(c) Advertising published or disseminated by or on behalf of a sales agent is being used to offer lands in all subdivisions for which the person is a sales agent unless an express limitation is made to or by the department.

History: 1979 AC.

R 338.3311 Letters of transmittal.

Rule 111. Each submission of advertising to the department, either as part of a statement of record or as a subsequent submission, shall be accompanied by a letter of transmittal which gives a brief, written description of each advertisement to assure that all future correspondence and orders concerning it will clearly identify it. The letter of transmittal shall be signed by the developer or his authorized representative and shall verify that the statements made and the representations contained therein have been reviewed and the advertisement is truthful and correct to the best of his knowledge and belief with regard to the statements contained therein.

History: 1979 AC.

R 338.3312 Identification of material.

Rule 112. (1) Advertising submitted to the department, either with the original statement of record or by subsequent filing, shall be assigned a number so the department or the applicant may refer by the number to a specific piece of advertising. Advertising relating to more than 1 subdivision owned by different persons but being sold through a common sales agent shall be assigned a designated number. However, this designation does not permit filings relating to separate subdivisions or parts of subdivisions without payment of the appropriate fee for each parcel, tract or subdivision to which it relates.

(2) The developer shall print on advertising material approved for use, the number assigned by the department to that specific piece of material.

History: 1979 AC.

R 338.3313 Material with statements of record.

Rule 113. (1) Advertising material submitted with a statement of record shall be considered in accordance with part 3.

(2) Advertising material not submitted with a statement of record shall be submitted to the department for approval before its use in this state. This advertising will be approved or rejected by the department within 15 days after its receipt. Where an order of rejection is not entered within that time, the advertising will be deemed approved unless the applicant has consented in writing to a delay. If an amendment to the application for approval of advertising is filed before the time when the land is registered, the application shall be considered filed when the amendment was filed, unless an amendment is filed with the consent of the department or pursuant to its order. In such case, the application shall be treated as filed on the date of filing the original application.

History: 1979 AC.

R 338.3314 Determinations and rejections.

Rule 114. In reviewing any advertising submitted by an applicant, the department shall determine whether it makes a full and fair disclosure or is false and misleading within the intent and meaning of the act and these rules, by examining the form, language and content of the advertising and supporting data and any other available information to ascertain whether the express and implied representations therein are true and make a full and fair disclosure. If it appears that the representations are not true and do not make a full and fair disclosure as to all subdivided lands to which the filing relates, the department will enter an order of rejection or take such other action as it considers necessary.

History: 1979 AC.

R 338.3317 Out-of-state advertising.

Rule 117. When advertising approved by the department is disapproved in another state or jurisdiction, the advertising may be changed to meet the requirements of that state or jurisdiction without prior approval by the department if:

- (a) The department is notified immediately of the change.
- (b) A copy of the advertising as changed is filed with the department within 10 days.
- (c) A copy of correspondence from the other state or jurisdiction requiring the change is filed with the department within 10 days.
- (d) The changed advertising is used only in the state or jurisdiction where the change was required.

History: 1979 AC.

PART 6. MEANS TO ASSURE RECEIPT OF CONTRACTUAL INTERESTS

R 338.3321 Subordination of blanket encumbrance liens.

Rule 121. A blanket encumbrance shall evidence subordination of its lien to the rights of persons purchasing from the developer and that the developer is able to secure releases from the blanket encumbrance with respect to the property. The provisions shall be acceptable to the department. For purposes of this rule, subordination of the lien is satisfied by a release clause which by its terms unconditionally provides for the release of contiguous and noncontiguous separate lots, units, or parcels being offered to purchasers, so that the purchaser or lessee of a lot, unit or parcel shall obtain legal title or other interest contracted for, free and clear of the blanket encumbrance upon compliance with terms and conditions of the purchase or lease from the developer.

History: 1979 AC.

R 338.3324 Trust and escrow accounts.

Rule 124. If the encumbering instrument does not contain adequate release clauses, the lien, mortgage or other encumbrance shall be considered objectionable unless adequate reserves are maintained in a trust or escrow account. In determining adequacy of the account, the department will be guided by the facts and circumstances of each individual case, but the account shall comply with 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 this state, or another state where the account is required to be maintained there by the laws of that state and approved by the department.

(c) Monthly statements shall be furnished to the department for a new account for the first 6 months, and in the department's discretion, quarterly or semiannually thereafter.

(d) The trust or escrow agreement shall state that its purpose is to protect the purchaser or prospective purchaser in case of default on a lien, mortgage or other encumbrance and shall authorize the department to inspect the records of the trustee relating thereto, and that upon order of the department or a court, the trustee shall release and pay over the funds to the department or a purchaser or the holder of the blanket encumbrance.

(e) The department, by its director, shall execute an acknowledgment on the face of each agreement. This acknowledgment indicates approval of the form and content of the agreement, but shall not be construed to make the department a party thereto.

History: 1979 AC.

R 338.3327 Instruments of sale.

Rule 127. An instrument evidencing sale or disposition of an interest in a subdivision shall be executed in a recordable form in accordance with the laws of the state where the land is located. An applicant has the burden of an affirmative showing of this compliance.

History: 1979 AC.

PART 7. MEANS TO ASSURE COMPLETION OF IMPROVEMENTS

R 338.3331 Improvements for public use, convenience, or necessity.

Rule 131. A subdivision or a part thereof on which construction of a promised improvement for public use, convenience or necessity has not been completed, shall not be registered for disposition. However, an incompleting improvement does not constitute an objection if completion of the improvement is assured by substantial completion, an irrevocable bank letter of credit, bond, or similar undertaking posted with a public authority and acceptable to the department, or by adequate reserves established and maintained in a trust or escrow account. In determining adequacy of the account, the department will be guided by the facts and circumstances of each individual case, but the account shall comply with 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 this state, or another state where the account is required to be maintained there by the laws of that state and approved by the department.
- (c) Monthly statements shall be furnished to the department for a new account for the first 6 months and in the department's discretion, quarterly or semiannually thereafter.
- (d) The trust or escrow agreement shall state that its purpose is to protect the purchaser or prospective purchaser in case the owner fails to complete construction of promised improvements or to satisfy any obligations or liens encumbering the purchaser's title by reason of the construction and shall authorize the department to inspect the records of the trustee relating thereto.
- (e) The department, by its director, shall execute an acknowledgment on the face of each agreement. This acknowledgment indicates approval of the form and content of the agreement, but shall not be construed to make the department a party thereto.

History: 1979 AC.

R 338.3332 Improvements not for public convenience, use, or necessity.

Rule 132. A subdivision or a part thereof on which construction of a promised improvement not for public use, convenience or necessity has not been completed shall not be registered for disposition to the public. However, the incompleting improvement shall not constitute an objection if completion is assured by:

- (a) An adequate plan of development, including financial resources committed to carry out the plan as provided in R 338.3335, which plan is subject to the department's continuing review and approval.
- (b) In case of failure of a developer to establish an adequate plan or to adhere to the plan once established, the department may require establishment of a trust or escrow account.

History: 1979 AC.

R 338.3335 Financial security.

Rule 135. (1) The department may accept surety bonds, escrow accounts, irrevocable bank letters of credit or any other financial security which it considers adequate in assuring a plan of development has adequate safeguards and assurances. In determining the security required, the department shall examine the status of improvements, the over-all cost of improvements, the terms of purchasers' contracts, the financial condition of the subdivider and such other data as it considers necessary. The department shall consider whatever financial security has been posted with other governmental authorities in making its determination.

(2) A surety bond will not be approved by the department unless it is on the form provided by the department.

History: 1979 AC.

PART 8. TAXES AND ASSESSMENTS

R 338.3341 Developer's duties.

Rule 141. (1) In a transaction for the sale of land under the act in which taxes are to be paid by either party, a developer shall:

- (a) Certify that there are no taxes, other than current taxes, owing on the property involved at the date of filing the statement of record, a consolidated statement of record, or an amendment to either.
- (b) Provide a form of escrow accounting satisfactory to the department in accord with subrule (2) if part of the purchasers' funds paid in or payable by the terms of the instrument disposing of the land is to be used for payment of taxes.

(2) In order that a purchaser will receive the interest in lands contracted for, if the developer apportions real property taxes prospectively and requires a purchaser to pay such taxes in a lump sum

or on a periodic basis, the developer shall place in the escrow account 100% of the payments with which to pay taxes when due.

History: 1979 AC.

R 338.3345 Purchaser's responsibilities.

Rule 145. (1) A purchaser is not responsible for payment of taxes or assessments levied before the effective date of his agreement with the developer or his agent, unless such taxes are prospective in nature, if so, they may be prorated and the instruments evidencing the sale or disposition of an interest in a subdivision shall so state.

(2) A purchaser shall not be assessed a service or collection fee or be required to pay a consideration for the assessment or allocation of taxes on the land involved in the transaction, in excess of that charged by a unit of government.

History: 1979 AC.

PART 15. DECLARATORY RULINGS; INVESTIGATIONS; HEARINGS

R 338.3451 Declaratory rulings.

Rule 251. (1) The department, on request of an interested person, may issue a declaratory ruling as to the applicability of the act or a rule herein to an actual statement of facts when he submits to the department the following:

(a) A clear and concise statement of the actual statement of facts.

(b) If the interested person desires, a brief or other reference to legal authorities upon which he relies for determination of the applicability of the act or a rule to the statement of facts.

(2) The department, if it determines it will issue a declaratory ruling, shall furnish the person with a statement to that effect and set forth the time in which the department will issue the ruling.

(3) A ruling shall repeat the actual statement of facts, the legal authority on which the department relies for its ruling, if any, and the ruling it makes. A ruling once issued is binding on the department and the department may not retroactively change the ruling, but nothing in this rule shall prohibit the department from prospectively changing a ruling.

History: 1979 AC.

R 338.3455 Officers to administer oaths and affirmations.

Rule 255. The following officers of the department are designated to administer oaths and affirmations during any investigation or proceeding under the act:

(a) Director of the department.

(b) Director, land sales division.

(c) Assistant director, land sales division.

(d) Chief investigator, land sales division.

(e) Presiding officer of a hearing.

History: 1979 AC.

R 338.3456 Officers to issue subpoenas and institute discovery.

Rule 256. (1) The following officers of the department are designated to subpoena witnesses, issue subpoenas duces tecum and institute discovery proceedings, in accordance with Michigan general court rules in any investigation or proceeding under the act:

(a) Director of the department.

(b) Director, land sales division.

(c) Assistant director, land sales division.

(2) Nothing in this rule shall be construed to abrogate the authority of a presiding officer prescribed in the administrative procedures act of 1969, as amended.

History: 1979 AC.

R 338.3461 Rejection of application for advertising approval or statement of record; notice.

Rule 261. (1) The department may reject a statement of record, including a property report and advertising, for a subdivision if the developer fails to comply with the act or these rules or the department's requirements thereunder. Before entering an order of rejection, the department shall notify the developer, by certified mail, of its decision in a notice of intent to reject for deficiencies. This notice shall toll the running of the 60-day period if the developer undertakes to correct the deficiencies.

(2) The final decision shall be by further order.

(3) An order of rejection may be entered after 15 days following the date of receipt of the notice of intent to reject, unless the developer corrects the deficiencies to the department's satisfaction within that time or the department extends the time to correct to a day certain.

History: 1979 AC; 1990 AACS.

R 338.3463 Hearings; notices and conduct.

Rule 263. (1) Parties shall be notified of a hearing by certified mail at their last known address, which shall be sent not less than 20 days before the date of the hearing.

(2) A hearing shall be open to the public and shall be conducted in accordance with the administrative procedures act of 1969, being Act No. 306 of the Public Acts of 1969, as amended, being SS24.201 to 24.315 of the Michigan Compiled Laws.

(3) A hearing shall be conducted by a presiding officer who shall be appointed by the director of the land sales division of the department. The decision of such director shall be the final decision.

History: 1979 AC.

R 338.3464 Hearings; appearances; pleadings.

Rule 264. (1) A party may appear at a hearing in person or by a duly authorized representative or attorney.

(2) If a party fails to appear after proper service of notice, the director of the land sales division, if no adjournment is granted, may proceed with the hearing and make his decision in the absence of such parties.

(3) An adjournment or continuance may be granted by the director of the land sales division or the person he designates for good cause shown by a party to the hearing or on his own motion or after stipulation and agreement between all parties, but a request for adjournment shall be made in writing not less than 5 days before the date set for the hearing.

(4) A party may file a written answer to charges or claims made or may present an oral statement at the time of the hearing. Copies of written pleadings and briefs shall be served on the director of the land sales division and all other parties not less than 5 days before the date set for the hearing.

History: 1954 ACS 76, Eff. Aug. 14, 1973; 1979 AC.

R 338.3465 Hearings; evidence.

Rule 265. (1) Testimony shall be under oath or affirmation.

(2) A deposition shall be taken only on order of the director of the land sales division upon a showing that it is impracticable or impossible to obtain necessary evidence otherwise. It shall be taken in accordance with provisions for taking depositions in civil cases, as set forth in the Michigan general court rules or other applicable court rules.

History: 1979 AC.

R 338.3466 Decisions, orders, and rehearings.

Rule 266. (1) Within a reasonable time after completion of a hearing, the director of the land sales division shall send by certified mail to the last known address of the parties the decision and orders which shall include findings of fact and conclusions of law.

(2) A rehearing may be granted by the director upon application in writing by a party to the hearing or upon his own motion in accordance with the administrative procedures act of 1969, as amended. A rehearing shall be noticed and conducted in the same manner as an original hearing.

History: 1979 AC.