

# THE C & D NEWSLETTER



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## REAL ESTATE DISCLOSURE REQUIREMENTS

Just as it is said that the three most important things in buying a house are location, location, location, the three most important things to avoid liability in selling a house are *disclosure, disclosure, disclosure*.

### Disclosure Required by Law

When selling residential property in California, the sellers and brokers are required to furnish the buyer with a Real Estate Transfer Disclosure Statement which essentially lists a home's appliances, features, systems, as well as the conditions, defects, or any matters affecting the property.

### The Real Estate Transfer Disclosure Statement

The Real Estate Transfer Disclosure Statement requires the seller to list:

- \* Appliances: dishwasher, trash compactor, range, oven, microwave, etc.
- \* Features: burglar alarm, sauna, pool, spa, gazebo, attached or detached garage, fireplaces, type of roof, etc.
- \* Systems: gas, electric or solar water heater; public utility or bottled gas supply; central, evaporator cooler, or window air conditioning; gas, electric or solar pool and spa heater; public sewer system, septic tank or sump pump, etc.
- \* Inoperative conditions: appliances, features, or systems that are not in operating condition.
- \* Significant defects: any defective walls, ceilings, floors, insulation, roof, windows, doors, foundation, slab, driveways, sidewalks, fences, electrical systems, plumbing systems, or other structural components of the house.
- \* Hazardous materials on the property: asbestos, radon gas, lead based paint, etc.
- \* Matters affecting the use of the property: flooding, drainage problems, settling/soil problems, neighborhood noise problems, common area facilities like tennis courts, walkways or pools, etc.
- \* Matters of public record affecting the property: additions or structural modifications made without necessary permits or not in compliance with building codes; citations against the property; lawsuits against the seller affecting the property, etc.

Both the real estate broker representing the seller and the real estate broker representing the buyer are required to sign the Real Estate Transfer Disclosure Statement. The real estate brokers representing the seller and the buyer are required to confirm the condition of the house based on a reasonably competent and diligent visual inspection of the accessible areas of the property.

## Avoiding Litigation

In these litigious times, it is particularly important that seller and brokers disclose defects in the property in order to avoid possible lawsuits from an unhappy buyer who has discovered "hidden" defects in the house. Just answering all of the questions on the Real Estate Transfer Disclosure Statement may not be sufficient. If there is any question as to whether a fact about the house is material, it is better to disclose it, and avoid the risk of a future lawsuit from a disgruntled buyer.

*This complimentary newsletter is intended to provide general information. Because of the complexities and constant changes in the law, it is important to seek professional advice before acting on any of the matters covered herein.*