MODEL SOUND INSULATION ORDINANCE FOR INCORPORATION INTO THE RESIDENTIAL BUILDING CODE

SECTION 1. TITLE AND PURPOSE. The Model Sound Insulation Ordinance. In order to promote good health, safety and general welfare of residential property users, regulating construction to accommodate the need for sound insulation is necessary. Sound insulation is required to protect the residential user from vehicular noise, aircraft noise, train noise and other noises that unreasonably interfere with the general welfare of the residents.

SECTION 2. INTERIOR NOISE LEVELS. Residential structures must have sufficient sound insulation/architectural treatment to keep the effect of external noise sources at no more than 45 dB within the structure.

SECTION 3. LOCATION OF STRUCTURES. The placement of all existing and proposed residential structures shall be shown as located on a sound overlay map for use by the public.

SECTION 4. AREAS OF SOUND TREATMENT. The following areas within a residence must be addressed:

a. Windows - Tight fitting windows with an STC rating of 40 to 44.

b. Doors - Prime doors must be pre-hung solid-core doors.

c. Interior Walls - At least 5/8 inch drywall

d. Interior Ceilings - At least 5/8 inch drywall

e. Insulation - R-13 for walls; R-25 for ceilings

SECTION 5. HEATING, VENTILATING AND AIR CONDITIONING (HVAC).

HVAC systems must be equipped with ventilation ducts connected to the outside so that fresh air may be mixed with existing interior air.

SECTION 6. CERTIFICATE OF COMPLAINCE REQUIRED. Construction drawings shall be submitted to the (City, Town, Village) Building Department for review and certification that the proposed materials and construction techniques appear to be satisfactory for the desired acoustical treatment and in conformance with all applicable code provisions. Subsequent to the completion of the structure but before occupancy, a Certificate of Occupancy shall be issued by the (City, Town, Village) when field inspection indicates that the construction is in accordance with approved design.

DISCLAIMER – This model ordinance is to be used only as a guide and not intended to be adopted as written. It is imperative that any such ordinance that is to be adopted by a municipality be done so only with the consultation and advice of local counsel.

ORDINANCE NO. 1393

AN ORDINANCE ADDING § 13-1-4 TO THE EL SEGUNDO MUNICIPAL CODE AND AMENDING THE 2001 CALIFORNIA BUILDING CODE ("CBC") BASED UPON LOCAL CLIMATIC, TOPOGRAPHIC, AND GEOGRAPHICAL CONDITIONS.

The council of the city of El Segundo does ordain as follows

SECTION 1 **FINDINGS** The City Council finds and declares as follows

A In accordance with Health and Safety Code § 17958 7, the City Council incorporated the 2001 Edition of the California Building Code ("CBC"), along with certain amendments, into the El Segundo Municipal Code ("ESMC") by Ordinance No 1349, adopted October 15, 2002

B Pursuant to the requirements of Health and Safety Code § 17958 7, the City Council finds that there are local geographical conditions justifying the CBC amendments set forth below Specifically, the City abuts the Los Angeles International Airport ("LAX"), one of the largest international airports in the world Consequently, the City and its citizens are profoundly affected by noise generated from air traffic using LAX Amending the ESMC and CBC through the additions in this Ordinance will help reduce the noise impact from air traffic and help improve public health, safety, and welfare including, without limitation, quality of life and property value

C Based upon the foregoing findings, the changes made to the CBC by this Ordinance are reasonably necessary to provide sufficient and effective protection of life, health and property

SECTION 2 A new section 13-1-4 is added to the El Segundo Municipal Code ("ESMC") to read as follows

"13-1-4 **Residential Noise Insulation Standards; Further Amendments to the Code**

CBC Appendix § 1208A 8 3 is added to read as follows

Airport Noise Sources

1208A 8 3 01 Noise Insulation Requirements for New Construction

1208A 8 3 02 Purpose and Scope

The purpose of this section is to establish minimum noise insulation performance standards for new residential dwelling units and additions of habitable rooms to

existing residential dwelling units to protect public health, safety, and welfare from the effects of excessive noise, including without limitation, indoor quality of life, speech interference, and sleep disruption

1208A 8 3 03 Applicability This section applies to all newly constructed residences and habitable room additions to existing residences

1208A 8 3 04 Definitions For purposes of this section, the following words must have the following meaning

"Community Noise Equivalent Level (CNEL)" means the noise measure defined in 21 Code of California Regulations § 5001(d), and any successor regulation or amendment

"Habitable Room" means a room that is a space in a structure for living, sleeping, eating, or cooking Bathrooms, toilet compartments, closets, halls, storage or utility space, garages, and similar areas are not considered habitable space

"LAX" means Los Angeles International Airport

"Noise Impact Boundary for LAX" means the area around LAX as defined in 21 California Code of Regulations § 5001(l), and any successor regulation or amendment The City's Building Safety Department must at all times maintain a current map of the Noise Impact Boundary

"Residence" means any Occupancy Group R building as used in El Segundo Title 15 of the El Segundo Municipal Code

1208A 8 3 05 Standards: Any new Residence or addition of one or more habitable rooms to an existing Residence that is within the Noise Impact Boundary for LAX must be designed to ensure that internal noise levels due to LAX do not exceed of 45 dB CNEL This standard may be satisfied in two ways (1) by performing the acoustical analysis described in section E, below, or (2) by employing the prescribed construction methods described in section F, below

1208A 8 3 06 Acoustical Analysis A building permit application for a new Residence or addition of one or more habitable rooms to an existing Residence must comply with the minimum noise insulation performance standards established in this section if it includes an acoustical analysis demonstrating that the proposed design will ensure that internal noise levels due to LAX aircraft noise will not exceed 45 dB CNEL The acoustical analysis is subject to verification by the Building Official, who has the discretion to require post-construction/pre-occupancy acoustic measurement to verify compliance with the 45 dB CNEL standard

A The acoustical analysis must be prepared by or under the supervision of a person experienced in the field of acoustical engineering The analysis must consider and include the topographical relationship between LAX aircraft noise sources and the

dwelling site, the characteristics of those noise sources, predicted noise spectra and levels at the exterior of the dwelling site, the basis for this prediction (measured or obtained from published data), the noise insulation measures to be employed, and the effectiveness of the proposed noise insulation measures

B If the interior allowable noise levels are to be met by requiring that windows be unopenable or closed, the design for the structure must also specify a ventilation or air-conditioning system to provide a habitable interior environment The ventilation system must not compromise the interior room noise reduction

1208A 8 3 07 Prescribed Construction Methods A building permit application for a new Residence or addition of one or more habitable rooms to an existing Residence must comply with the minimum noise insulation performance standards establish in this section if the design incorporates the following construction methods

CONSTRUCTION METHODS IN THE 70 DB CNEL AND GREATER NOISE ZONE

1208A 8 3 08 Exterior Walls New walls that form the exterior portion of habitable rooms must be constructed as follows

A Studs must be at least 4 inches in nominal depth

B Exterior finish must be stucco, minimum 7/8-inch thickness, brick veneer, masonry, or any siding material allowed by this code Wood or metal siding must be installed over ½-inch minimum solid sheathing

C Masonry walls with a surface weight of less than 40 pounds per square foot must require an interior supporting studwall that is finished with at least 5/8-inch thick gypsum wall board or plaster

D Wall insulation must be at least R-11 glass fiber or mineral wool and must be installed continuously throughout the stud space

E Exterior solid sheathing must be covered with overlapping asphalt felt

F Interior wall finish must be at least 5/8-inch thick gypsum wall board or plaster

1208A 8 3 09 Exterior Windows

A Openable Windows All openable windows in the exterior walls of habitable rooms must have a laboratory sound transmission class rating of at least STC 40 dB and must have an air infiltration rate of no more than 0 5 cubic feet per minute when tested according to ASTM E-283

B Fixed Windows All fixed windows in the exterior walls of habitable rooms must

1 Have a sound transmission class rating of at least STC 40 dB, or

2 Must be 5/8 inch laminated glass with STC rating of 40 dB and must be set in non-hardening glazing materials, or

3 Must be glass block at least 3-1/2 inches thick

C The total areas of glazing in rooms used for sleeping must not exceed 20% of the wall area

1208A.8.3.10 Exterior Doors

A Exterior hinged doors to habitable rooms that are directly exposed to aircraft noise and are facing the source of the noise must be a door and edge seal assembly that has a laboratory sound transmission class of at least STC 40 dB

B Exterior hinged doors to habitable rooms that are not directly exposed to aircraft noise and do not face the source of the noise must have a minimum STC rating of 35 dB

C Sliding glass doors in habitable rooms must not be allowed in walls that are directly exposed to aircraft noise Sliding glass doors in walls that are not directly exposed must have an STC rating of at least 40 dB

D Access doors from attached garage to the interior of a residence must have an STC rating of at least 30 dB

1208A 8 3 11 Roof/Ceiling Construction

A Roof rafters must have a minimum slope of 4.12 and must be covered on their top surface with minimum ½-inch solid sheathing and any roof covering allowed by this code

B Attic insulation must be batt or blow-in glass fiber or mineral wool with a minimum R-30 rating applied between the ceiling joists

C. Attic ventilation must be

1 Gable vents or vents that penetrate the roof surface that are fitted with transfer ducts at least 6 feet in length that are insulating flexible ducting or metal

ducts containing internal 1-inch thick coated fiberglass sound absorbing duct liner Each duct must have a lined 90-degree bend in the duct so that there is no direct line of sight from the exterior through the duct into the attic, or

2 Noise control louver vents, or

3 Eave vents that are located under the eave overhang

4 Ceilings must be finished with gypsum board or plaster that is at least 5/8-inch thick Ceiling materials must be mounted on resilient channels

5 Skylights must penetrate the ceiling by means of a completely enclosed light well that extends from the roof opening to the ceiling opening. A secondary openable glazing panel must be mounted at the ceiling line or at any point that provides at least a 4-inch space between the skylight glazing and the secondary glazing and must be glazed with at least 3/16-inch plastic or laminated glass The weather-side skylight must be any type that is permitted by the Building Code The size of skylights must be no more than 20 percent of the roof area of the room

1208A 8 3 12 Ventilation

A A ventilation system must be provided that will provide at least the minimum air circulation and fresh air supply requirements of this code in each habitable room without opening any window, door or other opening to the exterior All concealed ductwork must be insulated flexible glass fiber ducting that is at least 10 feet long between any two points of connection

B Kitchen cooktop vent hoods must be the non-ducted recirculating type with no ducted connection to the exterior

1208A 8 3.13 Fireplaces Each fireplace must be fitted with a damper at the top of the chimney. that is operated from the firebox and must have glass doors across the front of the firebox

1208A 8 3 14 Wall and Ceiling Openings Openings in the shell of the Residence that degrade its ability to achieve an interior CNEL rating of 45 dB or less when all doors and windows are closed are prohibited unless access panels, pet doors, mail delivery drops, air-conditioning, or other openings are designed to maintain the 45 dB CNEL (or less) standard in the room to which they provide access

CONSTRUCTION METHODS IN THE 65 DB CNEL TO 70 DB CNEL NOISE ZONE

1208A 8 3 15 Exterior Walls· New walls that form the exterior portion of habitable rooms must be constructed as follows

A Studs must be at least 4 inches in nominal depth

B Exterior finish must be stucco, minimum 7/8-inch thickness, brick veneer, masonry, or any siding material allowed by this code Wood or metal siding must be installed over ½-inch solid sheathing

C Masonry walls with a surface weight of less than 40 pounds per square foot will require an interior studwall that is finished with at least 5/8-inch thick gypsum wallboard or plaster

D Wall insulation must be at least R-11 glass fiber or mineral wool and must be installed continuously throughout the stud space

E Exterior solid sheathing must be covered with overlapping asphalt felt

F Interior wall finish must be at least 5/8-inch thick gypsum wallboard or plaster

1208A 8 3 16 Exterior Windows

A Openable Windows All openable windows in the exterior walls of habitable rooms must have a laboratory sound transmission class rating of at least STC 35 dB and must have an air infiltration rate of no more than 0 5 cubic feet per minute when tested according to ASTM E-283

B Fixed Windows All fixed windows in the exterior walls of habitable rooms must be at least 1/4-inch thick and must be set in non-hardening glazing materials

C The total area of glazing in rooms used for sleeping must not exceed 20% of the floor area

1208A 8 3 17 Exterior Doors

A Exterior hinged doors to habitable rooms that are directly exposed to aircraft noise and are facing the source of the noise must be a door and edge seal assembly that has a laboratory sound transmission class of at least STC 35 dB

B Exterior hinged doors to habitable rooms that are not directly exposed to aircraft noise and do not face the source of the noise must have a minimum STC rating of 30 dB

C Sliding glass doors in habitable rooms must have glass that is 1/4-inch thick

D Access doors from a garage to a habitable room must have an STC rating of at least 30 dB

1208A 8 3 18 Roof/Ceiling Construction

A Roof rafters must have a minimum slope of 4 12 and must be covered on their top surface with minimum ½-inch solid sheathing and any roof covering allowed by this code

B Attic insulation must be batt or blow-in glass fiber or mineral wool with a minimum R-30 rating applied between the ceiling joists

C Attic ventilation must be

1 Gable vents or vents that penetrate the roof surface that are fitted with transfer ducts at least 6 feet in length that are insulating flexible ducting or metal ducts containing internal 1-inch thick coated fiberglass sound absorbing duct liner Each duct must have a lined 90-degree bend in the duct so that there is no direct line of sight from the exterior through the duct into the attic, or

2 Noise control louver vents, or

3 Eave vents that are located under the eave overhang

D Ceilings must be finished with gypsum board or plaster that is at least 5/8-inch thick

E Skylights must penetrate the ceiling by means of a completely enclosed light well that extends from the roof opening to the ceiling opening A secondary openable glazing panel must be mounted at the ceiling line and must be glazed with at least 3/16-inch plastic, tempered or laminated glass The weather-side skylight must be any type that is permitted by the Building Code

1208A 8 3 19 Floors The floor of the lowest habitable rooms must be concrete slab on grade or wood framed floors

1208A 8 3 20 Ventilation

A A ventilation system must be provided that will provide at least the minimum air circulation and fresh air supply requirements of this code in each habitable room without opening any window, door or other opening to the exterior All concealed ductwork must be insulated flexible glass fiber ducting that is at least 10 feet long between any two points of connection

B Kitchen cooktop vent hoods must be the non-ducted recirculating type with no ducted connection to the exterior

1208A 8 3 21 Fireplaces Each fireplace must be fitted with a damper at the top of the chimney that is operated from the firebox and must have glass doors across the front of the firebox

1208A 8 3.22 Wall and Ceiling Openings Openings in the shell of the Residence that degrade its ability to achieve an interior CNEL rating of 45 dB or less when all doors and windows are closed are prohibited Any access panels, pet doors, mail delivery drops, air-conditioning, or other openings must be designed to maintain the 45 dB CNEL or less standard in the room to which they provide access "

SECTION 3 CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq , "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, et seq , the "State CEQA Guidelines") because it consists only of minor revisions and clarifications to an existing code of construction-related regulations and specification of procedures related thereto and will not have the effect of deleting or substantially changing any regulatory standards or findings required therefor This ordinance, therefore, is an action being taken for enhanced protection of the environment and that does not have the potential to cause significant effects on the environment

SECTION 4 SAVINGS CLAUSE Repeal of any provision of the ESMC or any other city ordinance herein will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance

SECTION 5 SEVERABILITY If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable

SECTION 6 VALIDITY OF PREVIOUS CODE SECTIONS If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the ESMC or other the city ordinance by this Ordinance will be rendered void and cause such ESMC provision or other the city ordinance to remain in full force and effect for all purposes

SECTION 7 EFFECTIVE DATE. This Ordinance will take effect on the 31st day following its final passage and adoption

PASSED AND ADOPTED this 6th day of April, 2006

Kelly McDowell,
Mayor

ATTEST

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF EL SEGUNDO)

I, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five, that the foregoing Ordinance No 1393 was duly introduced by said City Council at a regular meeting held on the 21st day of March, 2006, and was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 6th day of April, 2006, and the same was so passed and adopted by the following vote

AYES McDowell, Boulgarides, Busch, Jacobson

NOES None

ABSENT Gaines

ABSTAIN None

Cindy Mortesen, City Clerk

APPROVED AS TO FORM
Mark D Hensley, City Attorney

By
Karl H Berger, Assistant City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING CHAPTER 7 OF THE BURBANK MUNICIPAL CODE RELATING TO NOISE ATTENUATION IN RESIDENTIAL STRUCTURES.

City Attorney's Synopsis

This Ordinance amends portions of Chapter 7 of the Burbank Municipal Code relating to Noise Attenuation. It extends current noise insulation requirements, which apply to new hotels, apartments, and multifamily residences, to single family homes within the 60 dB CNEL noise contour. This project is part of the Bob Hope Airport Project which was examined in a Mitigated Negative Declaration approved by the Burbank-Glendale-Pasadena Airport Authority. As a responsible agency under the California Environmental Quality Act, the City considered the Mitigated Negative Declaration prior to approving the Municipal Code amendment.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. The Council of the City of Burbank at its regular meeting of January 18, 2005 held a duly noticed public hearing on the amendments to the building code concerning sound insulation in single family homes.

B. The building code amendments ("Project") is a component of the proposed Bob Hope Airport Project which was analyzed in and examined in a Final Mitigated Negative Declaration. On January 18, 2005, the Council adopted Resolution No. _____ where the City, as a responsible agency, made certain findings and considered the Final Mitigated Negation prior to its' consideration of several "City Discretionary Projects" of which the building code amendments were specifically included, in accordance with Title 14 California Code of Regulations (the "CEQA Guidelines") §15096.

C. The Council considered the testimony and evidence presented at the public hearings, including the report and recommendation of the Community Development Department. The Council further considered the Final Mitigated Negative Declaration prior to acting on this Project.

D. The Council finds that this building code amendment is unrelated to the relocation or expansion of a commercial passenger terminal building at the Bob Hope Airport and as such, does not require a vote of the people prior to authorizing the approval of this discretionary action. A vote is required by Section 11-112 of the

Burbank Municipal Code only when a discretionary action authorizes a relocation or expansion of the airport terminal.

E. On December 8, 2004, the Los Angeles County Airport Land Use Commission, after a duly noticed public hearing, found that this Project is consistent with goals and policies of the Los Angeles County Airport Land Use Plan in accordance with Public Utilities Code Section 21670 et. seq.

THE COUNCIL OF THE CITY OF BURBANK ORDAINS:

1. Section 7-1801 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1801. Purpose.

The purpose of this article is to establish uniform minimum noise insulation performance standards to protect persons within new hotels, motels, apartment houses, and dwellings from the effects of excessive noise, including but not limited to hearing loss or impairment and interference with speech and sleep. This article is adopted pursuant to the requirements of the State Building Code as contained in Chapter 1 of Title 24, Part 2 of the California Building Code.

2. Section 7-1802 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1802. Definitions.

(a) "Community Noise Equivalent Level (CNEL)" means a cumulative measure of community noise exposure for a 24-hour day, using the A-weighting sound level and expressed in logarithmic units. This CNEL scale takes into account the single event sound level, single event duration, single event occurrence frequency, and the time of the occurrence of the noise source. It additionally applies weighting factors which place greater significance on noise events occurring in the nighttime (10 p.m. to 7 a.m.) than during the evening (7 p.m. to 10 p.m.) or daytime (7 a.m. to 7 p.m.) respectively. It is used for evaluating noise impact on an area. For the purposes of this article 'CNEL' shall be synonymous with the term "day-night noise level" or "Ldn."

(b) "CNEL Contour" is a continuous line of like Community Noise Equivalent Levels, as mapped and designated in the adopted City of Burbank General Plan.

3. Section 7-1803 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1803. Application and Scope of Noise Insulation Performance Standards.

The provisions of this article relating to noise insulation performance standards apply to the following new structures: hotels, motels, apartment houses, and dwellings, including attached and detached single family homes. Included within this definition is any new addition to an existing motel, hotel or multiple family structure, which requires a building permit; only that portion of the addition falls under the provisions of this article. The rehabilitation, remodeling, or the conversion to condominiums of existing units are exempt from the requirements relating to noise insulation contained in this article. The rehabilitation or remodeling of existing single family dwelling units are also exempt from the requirements relating to noise insulation except as set forth below. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost immediately prior to destruction, it shall not be reconstructed except in conformity with the provisions of this article.

4. Section 7-1804 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1804. Field Testing and Certification.

Field testing shall be done under the supervision of a person experienced in the field of acoustical testing and engineering and shall forward test results to the building official showing that the minimum sound insulation requirements stated above have been met.

5. Section 7-1805 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1805. Location and Orientation.

Consistent with land use standards, residential structures located in noise critical areas, such as proximity to a select system of county roads and City streets (as specified in Section 186.4 of the State of California Streets and Highways Code), railroads, rapid transit lines, airports, or industrial areas, shall be designed to prevent the intrusion of exterior noises beyond prescribed levels with all exterior doors and windows in the closed position. Proper design shall include, but shall not be limited to, orientation of the residential structure, setbacks, shielding, and sound insulation of the building itself.

6. Section 7-1806 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1806. Interior Noise Level Requirement.

Interior community noise equivalent levels (CNEL), with windows closed, attributable to exterior sources shall not exceed an annual CNEL of 45 dB in any habitable room.

7. Section 7-1807 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1807. Acoustical Analysis Requirement.

(a) AIRPORT NOISE SOURCE.

Residential structures to be located within an annual CNEL contour of sixty (60) or higher require an acoustical analysis showing that the structure has been designed to limit intruding noise to the prescribed allowable levels.

EXCEPTION: Single-family dwellings located in a CNEL contour of 70-75 dB or below may comply with the provisions of Section 7-1810.

(b) VEHICULAR AND INDUSTRIAL NOISE SOURCES.

Residential buildings or structures to be located within an annual CNEL contour of sixty (60) or higher adjacent to the select system of county roads and City streets (as specified in Section 186.4 of the State of California Streets and Highways Code), freeways, state highways, railroads, rapid-transit lines and industrial noise sources shall require an acoustical analysis showing that the proposed building has been designed to limit intruding noise to the allowable interior noise levels prescribed in Section 7-1806.

EXCEPTION:

1. Railroads, where there are no nighttime (10:00 p.m. to 7:00 a.m.) railway operations and where day time (7:00 a.m. to 10:00 p.m.) railway operations do not exceed four (4) per day.
2. Single-family dwellings located in a CNEL contour of 70-75 dB or below may comply with the provisions of Section 7-1810.

8. Section 7-1808 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1808. Compliance.

Evidence of compliance shall consist of submittal of an acoustical analysis report, prepared under the supervision of a person experienced in the field of acoustical engineering, with the application for building permit. The report shall show topographical relationship of noise sources and dwelling site, identification of noise sources and their characteristics, predicted noise spectra at the exterior of the proposed dwelling structure considering present and future land usage, basis for the prediction (measured or obtained from published data), noise attenuation measures to be applied, and an analysis of the noise insulation effectiveness of the proposed construction showing that the prescribed interior noise level requirements are met. If interior allowable noise levels are met by requiring that windows be unopenable or closed, the design for the structure must also specify the means that will be employed to provide ventilation, and cooling if necessary, to provide a habitable interior environment.

9. Section 7-1809 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-1809. Field Testing.

be weatherstripped in accordance with the 2001 Energy Efficiency Standards for Low-Rise Residential Buildings.
EXCEPTION: Stained glass panels.

3. All exterior walls parallel to the noise source, or at some angle less than perpendicular to the noise source, shall be constructed, on the interior surface, with resilient channels 24" o.c. attached at right angles to the wood studs, with one layer of gypsum wallboard applied parallel to the channels. End joints of the wallboard shall be backblocked with resilient channels.

C. CNEL contour 75-80 dB. Dwellings located in a CNEL contour of 75-80 dB or above shall meet the acoustical analysis requirements of Section 7-1807.

11. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof has been deleted.

12. The City Clerk shall certify to the passage of this Ordinance and cause the City Attorney Synopsis of this Ordinance to be published once in a newspaper of general circulation, published and circulated in the City of Burbank, California.

13. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after publication. It shall not apply to any project which already has submitted an application for a buiding permit by the effective date.

PASSED AND ADOPTED this ____ day of _____, 2004.

_____
Marsha R. Ramos
Mayor of the City of Burbank

Attest:

_____
Margarita Campos, City Clerk

Approved as to Form and Legal Content
Dennis A Barlow, City Attorney

By:_____
Mary F. Riley, Sr. Asst. City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Margarita Campos, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2005, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the ____ day of _____, 2005.

_____
Margarita Campos, City Clerk

BEFORE THE DEPARTMENT OF TRANSPORTATION

OF THE STATE OF CALIFORNIA

Regarding the Application for Variance
to Section 5012 of the Noise Standards,
California Code of Regulations, Title 21,
for Ontario International Airport

DECISION

The Department of Transportation ("Department") has determined it is in the public interest to grant the Ontario International Airport (ONT) a variance to Section 5012, Title 21, of the California Code of Regulations (Noise Standards) with an effective date of May 13, 2004. This Decision responds to the application for a variance filed on July 18, 2003, by the City of Los Angeles' Los Angeles World Airports (LAWA), the proprietor of ONT.

BACKGROUND

The Department may grant a variance to Section 5012 of the Noise Standards if to do so would be in the public interest (Noise Standards Section 5053). The Department recognizes that ONT is a major transportation facility and economic asset to the City of Ontario, other cities in the Inland Empire, and to the counties of San Bernardino, Los Angeles, Riverside, Orange and Ventura as shown by evidence provided to this Department in a previous variance proceeding, which is not now disputed. The Department also recognizes the importance of ONT to a statewide and national system of airports.

ONT could only achieve immediate compliance with Section 5012's requirement that the airport have a zero Noise Impact Area (NIA), in lieu of having a variance, by a major reduction in air carrier and air cargo flight operations or by the immediate mitigation of hundreds of incompatible land uses.

The instant reduction of flight operations to meet the requirement of a zero NIA would have a serious negative economic effect on the entire airport service area. It would be detrimental to local businesses and to the employment situation in the five county service area. It would force travelers to other airports that are more distant thereby increasing automobile fuel consumption, air pollution, and would cause increased congestion and likely safety degradation on freeways, surface streets, and alternate airport facilities.

To achieve a zero NIA through the immediate mitigation of hundreds of incompatible land uses would not be economically feasible considering the number of units yet to be mitigated and the estimated cost for each unit.

The variance procedure is a necessary consideration under these circumstances. The Department is not aware of any substantive opposition to the grant of a variance with conditions that are legal, within the authority of the Department to order, economically and technologically feasible, and worthwhile from the aspect of reducing noise problems.

Since 1986, when the criterion for the NIA became a CNEL of 65 dB, the NIA for ONT has fluctuated in size, achieving a maximum size in excess of 1100 acres at one point. However, there was a relatively steep downward trend in the NIA from early 1993; with a plateau and some increase in the mid-1990's; and a continuing downward trend since mid-1998. This downward trend is apparently due to a combination of noise impact area reduction methods currently being implemented. The Quarterly Report of Noise Monitoring for the Fourth Quarter of 2003 indicates the NIA is now 80.4 acres in size and includes 359 dwelling units.

The early history of the development of ONT was recorded in a previous variance issued by this Department. It need not be repeated here. However, it is noteworthy that a new runway (26L/8R) was built in 1981 with the easterly threshold located 2,200 feet east of the threshold of the old runway. This allows aircraft to be higher when passing over the City of Ontario located to the west of the airport. In 1987, the original runway (26R/8L) was overlaid, reinforced and extended eastward an equal amount (2,200 feet) so that both runways permit westerly aircraft departures to be higher over the community, and therefore lessens surface noise impact.

A Noise Control Program has been in place for many years at ONT. In 1983, LAWA's predecessor formally updated its Noise Control Program through BOAC Resolution No. 13513. Since that time, additional amendments to the overall noise program have been made. Some of the pertinent issues within the all inclusive noise control program are that it:

- includes a preferential runway use procedure
- prohibits flight training by jet powered air carrier aircraft except upon prior approval
- prohibits jet engine runups during the late night hours
- provides for the continuation of airport noise monitoring
- designates airport staff to deal with noise management issues
- establishes a 24-hour noise complaint telephone line

The Federal Aviation Administration (FAA) has implemented those parts of the ONT Noise Control Program under its control.

The City of Los Angeles and the City of Ontario jointly conducted an Airport Noise and Land Use Compatibility Study under Federal Aviation Regulation (FAR) Part 150. The study was completed in 1990, and reviewed by the FAA in 1991. Of the twenty-two elements contained in the Part 150's Noise Compatibility Program, the FAA approved twelve, disapproved nine, and one element received no action. Among other things, the approval of this plan makes acoustic treatment projects, and in some cases, the acquisition of residences that are subjected to relatively high noise levels (above 70 dB CNEL) eligible on a priority basis for Federal funding. Acoustic treatment was approved for approximately 3,300 dwelling units, and for four schools that are inside the NIA. The relocation of a fifth school (Bon View Elementary) was approved later as a result of the short-lived increase in the NIA enclosing it. These types of projects are currently underway, and the City of Los Angeles, through LAWA, has thus far paid the local government portion of the funding involved.

ORDER

In accordance with the above information, the Department hereby grants a variance from Section 5012 of the Noise Standards for ONT. This variance is subject to the following terms and conditions:

1. The term of this variance is three years from its effective date.

2. LAWA is requested to continue implementing its Noise Control Program established in BOAC Resolution No.13513 with the exception of those elements that have been fully completed or disapproved by the FAA. It is recognized that said Program may need updating from time to time.

3. LAWA shall work closely with the FAA in an effort to have FAA continue implementation of the ONT preferential runway use program, including the use of contra-flow air traffic control procedures whenever it is safe to do so.

4. LAWA shall continue to work with the City of Ontario and appropriate school districts toward the implementation of the residential and school acoustic treatment programs and any property acquisition programs that currently exist pursuant to the Ontario FAR Part 150 Noise Compatibility Program and its several provisions which were approved by the Los Angeles BOAC, the Ontario City Council, and the FAA.

5. LAWA shall continue to meet with the Ontario Airport Noise Advisory Committee (OANAC), which shall be constituted as follows:

- two members representing the noise impacted citizens (at least one living in the NIA for ONT),
- one member representing ONT,

- one member representing schools impacted by noise,
- one member representing airlines operating at ONT,
- one member (possibly ex-officio) representing the FAA Air Traffic Control Tower together with an additional representative from the Southern California Approach Control Facility (SoCal Approach) located in San Diego when determined necessary by the members of the OANAC, and when such representative is available,
- one member representing the City of Ontario, and
- one member representing the public at large.

The purpose of this Committee shall be to provide a forum for use by LAWA and the Ontario community for discussion, education, and development of concepts and recommendations concerning the resolution of noise issues. LAWA shall advise the members of this committee of noise related issues affecting, or being considered in regard to ONT, and shall provide staff services as necessary to see that minutes are prepared for each meeting, and that recommendations of the OANAC are prepared in writing and forwarded to the Airport Manager at ONT with a copy provided to the Chairperson of the BOAC of the City of Los Angeles. No other contact between this committee and LAWA, or any other agency or person, is intended. The OANAC shall meet quarterly, unless its members decide otherwise. The meetings shall be organized and scheduled by the committee. As vacancies occur, the ONT representative shall notify the agency or group with the member vacancy, which shall select replacements that will maintain the committee's composition as described above. The City of Ontario is responsible for appointing replacements for members representing the City of Ontario, the noise impacted citizens, and the public at large.

6. Aircraft Noise Mitigation Program (ANMP).

(a) LAWA shall continue to implement its Aircraft Noise Mitigation Program (ANMP) as described and initiated pursuant to the Department's 1995 and 2000 variances for ONT. ONT, with the assistance of the City of Ontario, shall update the entire ANMP from time to time to ensure that it reasonably represents the mitigation and funding programs that are in place, being implemented, or proposed for future implementation. The ANMP shall be designed to ultimately fund the mitigation of all incompatible land uses within the noise impact boundary as defined in the Noise Standards. The City of Ontario shall have the opportunity to comment on the ANMP.

(b) LAWA, with the assistance of the City of Ontario, shall prepare an annual update of the numbers and tabular information within the ANMP that shows the total annual funding available and the annual performance of the City of Ontario in its efforts to achieve the mitigation of incompatible land uses. LAWA shall include this updated information with its second calendar quarter "quarterly report" information

that it submits pursuant to the reporting requirements within the Noise Standards. In updating the ANMP, LAWA shall request and consider any new information provided by the City of Ontario.

(c) A general guideline for establishing project priorities is to mitigate highly impacted noise areas first. However, this guideline should not be interpreted to prohibit the simultaneous implementation of both an acquisition program and an acoustic treatment program for properties that will continue to lie inside the 65 dB CNEL noise impact boundary.

7. LAWA shall continue to provide staff to respond to citizen complaints relative to noise, to work with OANAC, and to assist with implementing its Noise Control Program.

8. LAWA shall continue to prepare and forward reports of noise monitoring on a quarterly basis as required in Sections 5025 and 5030 through 5034 of the Noise Standards. Such reports shall also include a summary of actions taken by LAWA to comply with the specific requirements imposed by conditions of this variance.

9. This variance excuses ONT from meeting the requirement that there be no NIA based upon the standard identified in Section 5012 of the Noise Standards for the term of this variance. However, in the event that LAWA violates any of the aforementioned terms, conditions, or requirements of this order, such conduct shall constitute a cause for the termination or further conditioning of this variance. Pursuant to Public Utilities Code Sections 21669.2(a) and 21669.4(b) and Section 5022 of the Noise Standards, it is the function of the county wherein the airport is located to enforce the Noise Standards.

This Decision is hereby adopted by the Department of Transportation.

It shall become effective May 13, 2004 and is so ordered April 13, 2004.

Original signed by

R. AUSTIN WISWELL, Chief
Division of Aeronautics
California Department of Transportation

Air Transportation Planning Program

Bibliography of Air Transportation Compatible Land Use Plans / Model Zoning Ordinances

The following bibliography includes airport zoning ordinances, compatible land use planning handbooks and guidelines, and other planning resources, and is designed to assist local communities in their planning for compatible land uses around Sea-Tac Airport. The bibliography will be updated as new materials become available. Materials listed in this bibliography are available for review in the Regional Council Information Center.

For the latest information, see Air Transportation Planning Program Overview.

Airport Compatible Land Use Design Handbook, prepared by Denver Regional Council of Governments (DRCOG), 1998.

Airport Compatible Land Use Guidance for Florida Communities, prepared by Florida Department of Transportation, 1994.

Airport Compatibility Guidelines (Volume VI of the *Oregon Aviation System Plan*), prepared by Oregon Department of Transportation Aeronautics Division, 1981.

Airport Compatibility Guidelines: Compatibility Planning, Height Hazard Zoning, and Compatible Land Use Zones for Texas Airports, prepared by Texas Department of Transportation, Division of Aviation, January 1992.

Airport Land Use Planning Handbook, prepared for California Department of Transportation (CalTrans) Division of Aeronautics by Hodges & Shutt, December 1993.

Airport Land Use Planning Handbook, prepared for California Department of Transportation (CalTrans) Division of Aeronautics by MTC and ABAG, July 1983.

Airport Noise Overlay Zoning District (Section 14-03-01 of the *Bismarck Code of Ordinances*), prepared by the City of Bismarck, North Dakota, 1991.

Airport Noise Regulations -- Planning Advisory Service Report Number 437, prepared by the American Planning Association, May 1992.

Airport Zoning (*State of Florida Statutes and Rules*, Chapter 333), prepared by State of Florida, 1994.

Airport Zoning Ordinance (*Indian River County Land Development Regulations*, Chapter 911.17), prepared by Indian River County, Florida, 1993.

Airport Zoning Ordinance, prepared by Michigan Department of Transportation Aeronautics Commission.

Airports and Compatible Land Use, Volume 1: An Introduction and Overview for Decision-Makers, prepared by Washington State Dept of Transportation, Aviation Division, 1999.

Arizona State Aviation System Plan Update, Volume V: Land Use Compatibility Guide, prepared by TRA Airport Consulting for the Arizona Department of Transportation, 1988.

Dealing with Airport Growth -- Lessons for the Hudson Valley, prepared by Scenic Hudson, Inc., 1992.

Effectiveness Evaluation of the 1991 Airport Safety and Land Use Compatibility Study Commission Recommendations, prepared by Airport Safety and Land Use Compatibility Study Commission, Florida, 1993.

Final Policy on Part 150 Approval of Noise Mitigation Measures: Effect on the Use of Federal Grants for Noise Mitigation Projects (14 CFR Part 150), Federal Aviation Administration. *Federal Register* (vol.63, no.64), April 3, 1998

Guide for Land Use Planning Around Airports in Wisconsin, prepared by Wisconsin Department of Transportation, 1989.

Initial Review of Comprehensive Land Use Plans for Community Areas Within Sea-Tac Airport's Projected Noise Contour, prepared by Puget Sound Regional Council, 1999.

Installation Compatible Use Zone (ICUZ) Study: Fort Lewis Military Reservation, Washington, prepared for Fort Lewis Environmental and Natural Resources Division by Shapiro and Associates, August 1996.

Joint Land Use Study: a Study of Land Uses Compatible With or Adjacent to McChord Air Force Base and Fort Lewis, Washington, February 1992.

Land Use Compatibility: a Guide to Local Control of Land Use Around Airports, prepared by Cutler & Stanfield, L.L.P., 1998.

Land Use Encroachment - Technical Assistance, prepared by Washington State Department of Transportation, Aviation Division, 1996.

Land Use Guidelines Study (Volume VIII of the *Washington State Airport System Plan*), prepared by Washington Department of Transportation

Aeronautics Division, March 1991.

Land Use Plan for Areas Surrounding Airports in Santa Clara County, adopted by the Santa Clara County Airport Land Use Commission (ALUC), 1991.

Model Airport Noise Regulations for Port Columbus International Airport, prepared by Mid-Ohio Regional Planning Commission.

Model Airport Overlay Zone Ordinance, Appendix B of the *Regional Airport System Plan*, prepared by Puget Sound Council of Governments, September 1988.

A Model Zoning Ordinance to Limit Height of Objects Around Airports (*FAA Advisory Circular* AC 150/5190-4A), prepared by the Federal Aviation Administration (FAA), December 14, 1987.

Noise Control and Compatibility Planning for Airports (*FAA Advisory Circular* AC 150/5020-1), prepared by the Federal Aviation Administration (FAA), August 5, 1983.

Objects Affecting Navigable Airspace (14 CFR Part 77).

Off-Airport Land Use Development Plan for General Mitchell Field and Environs - 1977, prepared by the Southeast Wisconsin Regional Planning Commission, May 1977.

Portland International Airport Noise Impact Zone (Title 33, Planning and Zoning, *Portland Municipal Code*), prepared by the City of Portland, Oregon, 1990.

Report of Findings and Recommendations, prepared by Airport Safety and Land Use Compatibility Study Commission, Florida, 1991.

Washington State Aeronautics Laws and Regulations: Sections of the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) Pertaining to Aviation in Washington State, prepared by the Washington State Department of Transportation Aeronautics Division, December 1990 [in particular, see Chapter 14.13 RCW -- *Airport Zoning*; and Chapter 12-24 WAC -- *Obstruction Marking and Lighting*].

Watts-Woodland Airport Comprehensive Land Use Plan, prepared by the Sacramento Area Council of Governments, December 1988.

The materials listed above are available for review in the Puget Sound Regional Council Information Center. The Information Center's public hours are 10am-3pm weekdays, with other hours by appointment. Visitors are welcome. To make an appointment, phone (206) 464-7532 or email infoctr@psrc.org.

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

(CALIFORNIA CIVIL CODE 1102, ET SEQ.)

CALIFORNIA ASSOCIATION OF REALTORS® (CAR) STANDARD FORM

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____.
THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 19____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I
COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same: _____

(LIST ALL SUBSTITUTED DISCLOSURE FORMS TO BE USED IN CONNECTION WITH THIS TRANSACTION)

II
SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in conpection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller ☐ is ☐ is not occupying the property.

A. The subject property has the items checked below (read across):

☐ Range
☐ Dishwasher
☐ Washer/Dryer Hookups
☐ Burglar Alarms
☐ T.V. Antenna
☐ Central Heating
☐ Wall/Window Air Conditioning
☐ Septic Tank
☐ Patio/Decking
☐ Sauna
☐ Security Gate(s)
Garage: ☐ Attached
Pool/Spa Heater: ☐ Gas
Water Heater: ☐ Gas
Water Supply: ☐ City
Gas Supply: ☐ Utility

☐ Oven
☐ Trash Compactor
☐ Window Screens
☐ Smoke Detector(s)
☐ Satellite Dish
☐ Central Air Conditioning
☐ Sprinklers
☐ Sump Pump
☐ Built-in Barbecue
☐ Pool
☐ Automatic Garage Door Opener(s)*
☐ Not Attached
☐ Solar
☐ Solar
☐ Well
☐ Bottled

☐ Microwave
☐ Garbage Disposal
☐ Rain Gutters
☐ Fire Alarm
☐ Intercom
☐ Evaporator Cooler(s)
☐ Public Sewer System
☐ Water Softener
☐ Gazebo
☐ Spa ☐ Hot Tub
☐ Number of Remote Controls _____
☐ Carport
☐ Electric
☐ Electric
☐ Private Utility ☐ Other _____

Exhaust Fan(s) in _____ 220 Volt Wiring in _____
Fireplace(s) in _____ ☐ Gas Starter
☐ Roof(s): Type: _____ Age: _____ (approx.)
☐ Other: _____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? ☐ Yes ☐ No If yes, then describe. (Attach additional sheets if necessary.): _____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? ☐ Yes ☐ No **If yes, check appropriate space(s) below.**

☐ Interior Walls ☐ Ceilings ☐ Floors ☐ Exterior Walls ☐ Insulation ☐ Roof(s) ☐ Windows ☐ Doors ☐ Foundation ☐ Slab(s)
☐ Driveways ☐ Sidewalks ☐ Walls/Fences ☐ Electrical Systems ☐ Plumbing/Sewers/Septics ☐ Other Structural Components
(Describe: _____)

If any of the above is checked, explain. (Attach additional sheets if necessary): _____

*This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code.

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 1 of 2 Pages.
Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

SAMPLE

Copyright © 1990 CALIFORNIA ASSOCIATION OF REALTORS®
525 South Virgil Avenue, Los Angeles, California 90020
IN COMPLIANCE WITH CIVIL CODE SECTION 1102.6 / EFFECTIVE JULY 1, 1991.

BUYER'S COPY

OFFICE USE ONLY
Reviewed by Broker or Designee _____
Date _____

Subject Property Address: _____ _____, 19 ___.

C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property. ☐ Yes ☐
2. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property. ☐ Yes ☐
3. Any encroachments, easements or similar matters that may affect your interest in the subject property. ☐ Yes ☐ No
4. Room additions, structural modifications, or other alterations or repairs made without necessary permits. ☐ Yes ☐ No
5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes. ☐ Yes ☐ No
6. Landfill (compacted or otherwise) on the property or any portion thereof. ☐ Yes ☐ No
7. Any settling from any cause, or slippage, sliding, or other soil problems. ☐ Yes ☐ No
8. Flooding, drainage or grading problems. ☐ Yes ☐ No
9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides. ☐ Yes ☐ No
10. Any zoning violations, nonconforming uses, violations of "setback" requirements. ☐ Yes ☐ No
11. Neighborhood noise problems or other nuisances. ☐ Yes ☐ No
12. CC&R's or other deed restrictions or obligations. ☐ Yes ☐ No
13. Homeowners' Association which has any authority over the subject property. ☐ Yes ☐ No
14. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others). ☐ Yes ☐ No
15. Any notices of abatement or citations against the property. ☐ Yes ☐ No
16. Any lawsuits against the seller threatening to or affecting this real property. ☐ Yes ☐ No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.): _____

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller _____ Date _____

Seller _____ Date _____

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the seller is represented by an agent in this transaction.)
THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

Agent (Broker Representing Seller) _____ By _____ Date _____
(PLEASE PRINT) (ASSOCIATE LICENSEE OR BROKER-SIGNATURE)

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.)
THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

Agent (Broker obtaining the Offer) _____ By _____ Date _____
(PLEASE PRINT) (ASSOCIATE LICENSEE OR BROKER-SIGNATURE)

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____

Seller _____ Date _____ Buyer _____ Date _____

Agent (Broker Representing Seller) _____ By _____ Date _____
(PLEASE PRINT) (ASSOCIATE LICENSEE OR BROKER-SIGNATURE)

Agent (Broker obtaining the Offer) _____ By _____ Date _____
(PLEASE PRINT) (ASSOCIATE LICENSEE OR BROKER-SIGNATURE)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

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Page 2 of ___ Pages.

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Date _____

EQUAL HOUSING OPPORTUNITY

SAMPLE

Article 1

MODE OF TRANSFER

Section
1093. Consolidation of separate and distinct legal descriptions into single instrument of conveyance or security document; effect on separate nature of property.

§ 1091. Method of transfer

Law Review and Journal Commentaries

Donative and interspousal transfers of community property in California: Where we are (or should be) after MacDonald. Jerry A. Kasner, 23 Pac.L.J. 361 (1991).

Notes of Decisions

10. —— Signature, formalities of execution

Under California law, valid grant of interest in real property does not require signature of grantee to be valid. In re Van Ness Associates, Ltd., Bkrtcy.N.D.Cal.1994, 173 B.R. 661.

Under California law, creditor's signature on amendment to deed of trust would be unnecessary, and amendment would be valid upon delivery by grantor, absent contrary requirement in deed of trust. In re Van Ness Associates, Ltd., Bkrtcy.N.D.Cal.1994, 173 B.R. 661.

12. Leases

In enacting statutes of frauds governing agreements that cannot be performed within one year generally and agreements to lease real property for period of more than one year, legislature intended that agreement to lease real property for term exceeding one year not be enforceable by lessee unless it is in writing and signed by lessor. Bed, Bath & Beyond of La Jolla, Inc. v. La Jolla Village Square Venture Partners (App. 4 Dist. 1997) 60 Cal. Rptr.2d 830, 52 Cal.App.4th 867.

§ 1093. Consolidation of separate and distinct legal descriptions into single instrument of conveyance or security document; effect on separate nature of property

Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one previously separate and distinct legal description), does not operate in any manner to alter or affect the separate and distinct nature of the real property so described in the subsequent single instrument of conveyance or security document containing either the listing of or the consolidated legal description of the parcels so conveyed or secured thereby.

This section does not constitute a change in, but is declaratory of, the existing law.

(Added by Stats.1985, c. 911, § 1.)

§ 1095. Attorney in fact; execution of instruments

Notes of Decisions

2. Defective execution

Fact that debtor husband, acting as wife's attorney in fact in signing her name to deeds of trust, failed to comply with California statute requiring him to subscribe his own name as attorney in fact did not minimize his authority to bind wife to the deeds of trust where third-party banks reasonably relied on notarized acknowledgments of wife's signatures on the documents. In re Nelson, C.A.9 (Cal.)1985, 761 F.2d 1320.

Article 1.5

DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY

Section
1102. Application of article; waiver of requirements.
1102.1. Legislative intent; Chapter 817 of Statutes of 1994; waiver of delivery of real estate disclosure statement.
1102.2. Nonapplication of article.
1102.3. Delivery of required written statement from transferor to prospective transferee; indication of compliance with article; disclosures delivered after offer to purchase; time to terminate.
1102.4. Errors, inaccuracies, or omissions of information delivered; liability of transferor; delivery of information by public agency; delivery of reports or opinions prepared by experts.
1102.5. Information subsequently rendered inaccurate; required information unknown or not available.
1102.6. Disclosure form.
1102.6a. Disclosure form.
1102.6b. Disclosure to prospective purchaser of continuing lien securing special tax levy.
1102.6c. Natural hazard disclosure statement; properties within hazardous areas.
1102.7. Good faith required.
1102.8. Specification of items for disclosure not limitation on other disclosure obligations.
1102.9. Amendment of disclosures.
1102.10. Delivery of disclosures; personal delivery or mail.
1102.11. Escrow agent not deemed agent for purposes of disclosure; exception.
1102.12. Licensed real estate brokers as agents in transaction; delivery of disclosure advising transferee of rights to disclosure; record.
1102.13. Failure to comply with article; transfer not invalidated; damages.
1102.14. Definitions.
1102.15. Former federal or state ordnance locations; definition.
1102.16. Window security bars and safety release mechanism; disclosure.
1102.17. Repealed.

Article 1.5 was added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.

Cross References

Manufactured homes and mobilehomes, task force to propose changes to make Article 1.5 applicable to such housing, see Health and Safety Code § 18160.

Law Review and Journal Commentaries

Premises liability in California. Irwin E. Sandler, 15 L.A.Law. 38 (Jan. 1993).

§ 1102. Application of article; waiver of requirements

(a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property, or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units

(b) Except as provided in Section 1102.2, this article shall * * * apply to a resale transaction entered into on or after January 1, * * * 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, which is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, which is classified as personal property intended for use as a residence.

(c) Any waiver of the requirements of this article is void as against public policy.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, § 1; Stats.1994, c. 817 (S.B.1377), § 1; Stats.1995, c. 335 (A.B.530), § 1; Stats.1996, c. 677 (S.B.1704), § 1; Stats.1997, c. 71 (S.B.384), § 1, eff. July 14, 1997; Stats.1998, c. 693 (S.B.1988), § 1.)

Historical and Statutory Notes

1985 Legislation

Section 3 of Stats.1985, c. 1574, provides:

"This act shall become operative on January 1, 1987."

1986 Legislation

The 1986 amendment included exchange, any other option to purchase and residential stock cooperative, and inserted "or consisting of".

1994 Legislation

The 1994 amendment designated the present text as subd. (a) and added subd. (b), relating to waiver of the requirements of the article.

1995 Legislation

The 1995 amendment, in subd. (a), substituted "Section 1102.2" for "Section 1102.1".

The Assembly Daily Journal for the 1995-96 Regular Session, page 4250, contained the following letter dated Dec. 1, 1995, from Assembly Member Weggeland regarding A.B.530 (Stats.1995, c. 335):

"I am writing to request that this letter be published in the Journal so as to resolve any possible doubt about my intent regarding my legislation.

"Earlier this year I authored Assembly Bill 530, Chapter 335 of the Statutes of 1995, to clarify and codify the

intent behind recent changes to the real estate transfer disclosure form. Among other clarifications to the form itself, those changes were accompanied by legislative intent language which became the subject of my legislation.

"It appears that no language can be without ambiguity. A question has been raised as to whether the bill is applicable to transactions beyond those subject to the residential disclosure law (Civil Code 1102 et seq.), and whether its use would then be required for disclosures that the applicable statute (Civil Code Sec. 1102.2) specifically lists as exempted from the act. Such an absurd and unfortunate result was never intended nor was it ever considered or discussed in the course of the bill's movement through the Legislature.

"I am aware that real estate licensees have occasionally used the agents' portion of the statutory transfer disclosure form to report upon transactions not subject to the form, but my legislation does not speak to this type of transaction or inspection. The main point of the existing intent language, which my bill only codified, was to make it clear that licensees obligations under Civil Code Sec. 2079 et seq. were not changed by making the transfer disclosure statement applicable to an 'as is' transaction.

"Thank you for your consideration and cooperation in setting the record straight."

1996 Legislation

The 1996 amendment inserted subd. (b), relating to resale of manufactured homes, and redesignated as subd. (c) former subd. (b).

1997 Legislation

The 1997 amendment, in subd. (b), inserted "which is classified as personal property" in two places and made nonsubstantive changes.

1998 Legislation

Stats.1998, c. 693, § 1, rewrote subd. (b) which formerly provided:

"(b) This article shall be applicable to the resale on or after January 1, 1999, of a manufactured home, as defined in Section 18007 of the Health and Safety Code, which is classified as personal property, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, which is classified as personal property."

Cross References

Manufactured homes and mobilehomes, task force to propose changes to make Article 1.5 applicable to such housing, see Health and Safety Code § 18160.

§ 1102.1. Legislative intent; Chapter 817 of Statutes of 1994; waiver of delivery of real estate disclosure statement

In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement, as specified in Section 1102.6. The Legislature intended the statement to be used by * * * transferors making disclosures required * * * under this article and by agents making disclosures required by Section 2079 * * * on the agent's portion of the real estate disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to * * * affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections * * * noted on the disclosure form set forth in Section 1102.6 or 1102.6a, and that nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an "as is" sale, as held in Loughrin v. Superior Court, 15 Cal.App.4th 1188. (Added by Stats.1995, c. 335 (A.B.530), § 2. Amended by Stats.1996, c. 240 (A.B.2383), § 1.)

Historical and Statutory Notes

1995 Legislation

Letter from legislator regarding A.B.530 (Stats.1995, c. 335), see Historical and Statutory Notes under Civil Code § 1102.

1996 Legislation

The 1996 amendment rewrote the first paragraph, which had read:

"In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement, as specified in Section 1102.6. The Legislature intended the statement to be used by both transferors making required disclosures and by agents making disclosures required by Section 2079; and the Legislature did not intend to adversely affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact, including the physical conditions of the property and previously received reports of physical inspections, materially affecting the value and desirability of the property, and that nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079."

Former § 1102.1 was renumbered Civil Code § 1102.2 and amended by Stats.1995, c. 335 (A.B.530) § 3.

§ 1102.2. Nonapplication of article

This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Co

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to such a judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.

(Formerly § 1102.1, added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, § 2; Stats.1992, c. 163 (A.B.2641), § 7, operative Jan. 1, 1994. Renumbered § 1102.2 and amended by Stats.1995, c. 335 (A.B.530), § 3.)

Law Revision Commission Comment

1992 Amendment

Subdivision (g) of Section 1102.1 is amended to substitute "judgment" for "decree" to conform to the terminology of the Family Code. [22 Cal.L.Rev.Comm.Reports 1 (1992)].

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

1986 Legislation

The 1986 amendment made subds. (b) and (c) applicable to transfers by any foreclosure sale after default or under decree of foreclosure; inserted "or successor in interest who is" twice in subd. (c); and included exchanges in subd. (j).

1992 Legislation

The 1992 amendment made changes to conform with the enactment of the Family Code by Stats.1992, c. 162.

1995 Legislation

The 1995 amendment amended and renumbered the section without change in the text.

Letter from legislator regarding A.B.530 (Stats.1995, c 335), see Historical and Statutory Notes under Civil Code § 1102.

Former § 1102.2 was renumbered Civil Code § 1102.3 and amended by Stats.1995, c. 335 (A.B.530) § 4.

§ 1102.3. Delivery of required written statement from transferor to prospective transferee; indication of compliance with article; disclosures delivered after offer to purchase; time to terminate

The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

With respect to any transfer subject to subdivision (a) or (b), the transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, or any addendum attached thereto or on a separate document.

If any disclosure, or any material amendment of any disclosure, required to be made by this article, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor's agent.

(Formerly § 1102.2, added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, § 3. Renumbered § 1102.3 and amended by Stats.1995, c. 335 (A.B.530), § 4.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

1986 Legislation

The 1986 amendment inserted "as soon as practicable" in the first sentence and defined "execution" in subd. (b).

1995 Legislation

The 1995 amendment amended and renumbered the section without change in the text.

Letter from legislator regarding A.B.530 (Stats.1995, c. 335), see Historical and Statutory Notes under Civil Code § 1102.

§ 1102.4. Errors, inaccuracies, or omissions of information delivered; liability of transferor; delivery of information by public agency; delivery of reports or opinions prepared by experts

(a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral * * *. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, § 4.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

1986 Legislation

The 1986 amendment substituted "transferor or listing or selling agent" for "transferor or his or her agent" throughout the section.

§ 1102.5. Information subsequently rendered inaccurate; required information unknown or not available

If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or his or her agent has made a reasonable effort to ascertain it, the transferor may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or his or her agent, and is not used for the purpose of circumventing or evading this article.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

Notes of Decisions

Duty to investigate 1

1. Duty to investigate

Relocation management service that sold residential property to purchasers had no common law or statutory duty to investigate former property owners' disclosure statement which failed to mention disturbing noises and commotion caused by next door neighbors; sales agreement contained express disclaimer stating that relocation service had no personal knowledge of property and made no representations concerning property, purchaser assumed burden to investigate under agreement, and relocation service had no reason to doubt disclosure statement. Shapiro v. Sutherland (App. 2 Dist. 1998) 76 Cal.Rptr.2d 101, 64 Cal.App.4th 1534.

§ 1102.6. Disclosure form

The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 19___. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

☐ Inspection reports completed pursuant to the contract of sale or receipt for deposit.
☐ Additional inspection reports or disclosures:

_____
_____
_____

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller___is ___is not occupying the property.

A. The subject property has the items checked below (read across):

__Range	__Oven	__Microwave
__Dishwasher	__Trash Compactor	__Garbage Disposal
__Washer/Dryer Hookups	* * *	__Rain Gutters
__Burglar Alarms	__Smoke Detector(s)	__Fire Alarm
__TV Antenna	__Satellite Dish	__Intercom
__Central Heating	__Central Air Cndtng.	__Evaporator Cooler(s)
__Wall/Window Air Cndtng.	__Sprinklers	__Public Sewer System
__Septic Tank	__Sump Pump	__Water Softener
__Patio/Decking	__Built-in Barbecue	__Gazebo
__Sauna	* * *	* * *
__ Hot Tub __Locking Safety Cover*	__ Pool __Child Resistant Barrier*	__ Spa __Locking Safety Cover*
__Security Gate(s)	__Automatic Garage Door Opener(s)*	__Number Remote Controls
Garage: __Attached	__Not Attached	__Carport
Pool/Spa Heater: __Gas	__Solar	__Electric
Water Heater: __Gas	__ Water Heater Anchored, Braced, or Strapped*	__Private Utility or Other_____
Water Supply: __City	__Well	
Gas Supply: __Utility	__Bottled	
__ Window Screens	__ Window Security Bars __Quick Release Mechanism on Bedroom Windows*	

Exhaust Fan(s) in _____ 220 Volt Wiring in _____ Fireplace(s) in _____
Gas Starter _____ Roof(s): Type: _____ Age: _____ (approx.)
Other:_____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes __No. If yes, then describe.
(Attach additional sheets if necessary):_____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? __Yes __No. If yes, check appropriate space(s) below.

__Interior Walls __Ceilings __Floors __Exterior Walls __Insulation __Roof(s) __Windows __Doors __Foundation __Slab(s) __Driveways __Sidewalks __Walls/Fences __Electrical Systems __Plumbing/Sewers/Septics __Other Structural Components (Describe:_____)

If any of the above is checked, explain. (Attach additional sheets if necessary):_____

* This garage door opener or child resistant pool barrier may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of, or with the pool safety standards of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104 of, the Health and Safety Code. The water heater may not be anchored, braced, or strapped in accordance with Section 19211 of the Health and Safety Code. Window security bars may not have quick-release mechanisms in compliance with the 1995 Edition of the California Building Standards Code.

C. Are you (Seller) aware of any of the following:

1.	Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property	__Yes __No
2.	Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property	__Yes __No
3.	Any encroachments, easements or similar matters that may affect your interest in the subject property	__Yes __No
4.	Room additions, structural modifications, or other alterations or repairs made without necessary permits	__Yes __No
5.	Room additions, structural modifications, or other alterations or repairs not in compliance with building codes	__Yes __No
6.	Fill (compacted or otherwise) on the property or any portion thereof	__Yes __No
7.	Any settling from any cause, or slippage, sliding, or other soil problems	__Yes

8.	Flooding, drainage or grading problems	__Yes __No
9.	Major damage to the property or any of the structures from fire, earthquake, floods, or landslides	__Yes __No
10.	Any zoning violations, nonconforming uses, violations of "setback" requirements	__Yes __No
11.	Neighborhood noise problems or other nuisances	__Yes __No
12.	CC&R's or other deed restrictions or obligations	__Yes __No
13.	Homeowners' Association which has any authority over the subject property	__Yes __No
14.	Any "common area" (facilities such as pools, tennis courts, walkways, or other areas coowned in undivided interest with others)	__Yes __No
15.	Any notices of abatement or citations against the property	__Yes __No
16.	Any lawsuits by or against the seller threatening to or affecting this real property, including any lawsuits alleging a defect or deficiency in this real property or "common areas" (facilities such as pools, tennis courts, walkways, or other areas coowned in undivided interest with others)	__Yes __No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.):_____

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller_____ Date_____
Seller_____ Date_____

III [1]

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an agent in this transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

☐ Agent notes no items for disclosure.
☐ Agent notes the following items:

Agent (Broker Representing Seller) _____ (Please Print) By _____ (Associate Licensee or Broker-Signature) Date_____

IV

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

☐ Agent notes no items for disclosure.
☐ Agent notes the following items:

Agent (Broker obtaining the Offer) _____ (Please Print) By _____ (Associate Licensee or Broker-Signature) Date_____

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller_____ Date_____ Buyer_____ Date_____
Seller_____ Date_____ Buyer_____ Date_____

Agent (Broker Representing Seller) _____ By _____ Date_____
(Associate Licensee or Broker–Signature)

Agent (Broker obtaining the Offer) _____ By _____ Date_____
(Associate Licensee or Broker–Signature)

SECTION 1102.3 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, § 5; Stats.1989, c. 171, § 1; Stats.1990, c. 1336 (A.B.3600), § 2, operative July 1, 1991; Stats.1994, c. 817 (S.B.1377), § 2; Stats.1996, c. 240 (A.B.2383), § 2; Stats.1996, c. 925 (A.B.3305), § 1; Stats.1996, c. 926 (A.B.3026), § 1.5, operative July 1, 1997.)

[1] Enrolled bill contains no II.

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

1986 Legislation

The 1986 amendment inserted the first sentence in the introductory paragraph of the form; changed the parenthetical matter in I from "(for example: geologic hazard zones, creative financing, and structural alterations or additions)" to "(for example: special study zone and purchase-money liens on residential property)"; inserted "substituted" in the parenthetical phrase at end of I; included, in II A, gas supply and gas starter matter; inserted insulation in B; inserted item 11 in II C and renumbered former items 11 to 14 accordingly; moved the former second paragraph of III to be the beginning paragraph of V; substituted "the seller" for "the principals" in the parenthetical first sentence of III; added "THE UNDERSIGNED"; deleted references to an agent in the first paragraph in III, and substituted "Agent (Broker Representing Seller)" for "Real Estate Broker" and added "or Broker" after "Associate Licensee" in the signature line in III and in the third line of the acknowledgement in V; inserted a new IV and renumbered former IV to V; and added the fourth signature line in V.

1989 Legislation

The 1989 amendment, in the transfer disclosure statement, in Part II, added paragraph 1 of subd. C relating to materials or products which may be environmentally hazardous; and made nonsubstantive changes throughout.

1990 Legislation

Section 4 of Stats.1990, c. 1336 (A.B.3600), provides:

"Section 2 of this act shall be operative on July 1, 1991."

The 1990 amendment, in the Sellers Information part of the statement, substituted "Automatic Garage Door Opener(s)*" for "Garage Door Opener(s)" in the list in par. A. and added the footnote on garage door openers.

1994 Legislation

The 1994 amendment, in I, inserted "Inspection reports completed pursuant to the contract of sale or receipt for deposit." and "Additional inspection reports or disclosures:"; deleted "II" prior to the second heading; in the heading "SELLERS INFORMATION", substituted "SELLER'S" for "SELLERS"; in C 4 and C 5 under the heading SELLER'S INFORMATION, substituted "Room" for "Rooms"; in C 6 under the heading SELLER'S INFORMATION, substituted "Fill" for "Landfill"; in C 16 under the heading SELLER'S INFORMATION, inserted "by or" following "lawsuits" and ", including any lawsuits alleging a defect or deficiency in this real property or 'common areas' (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)" following "property"; in the heading for III, substituted "AGENT'S" for "AGENTS"; in III, inserted "Agent notes no items for disclosure." and "Agent notes the following items:"; in the heading for IV, substituted "AGENT'S" for "AGENTS"; in IV, inserted "Agent notes no items for disclosure." and "Agent notes the following items:"; and in V following the signature lines, inserted the paragraph relating to the right to rescind under Civil Code § 1102.2.

Section 3 of Stats.1994, c. 817 (S.B.1377), provides:

"It is the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement specified in Section 1102.6 of the Civil Code. The Legislature does not intend to adversely affect the existing obligations of the parties to a real estate contract, including their agents, to disclose any fact, including the physical conditions of the property and previously received reports of physical inspections, materially affecting the value and desirability of the property.

"It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an 'as is' sale, as was held in Loughrin v. Superior Court (1993), 15 Cal. App. 4th 1188."

1996 Legislation

The 1996 amendment, in the portion of the form designated as Seller's Information, rewrote Parts (A) and (B); and substituted the reference to Civil Code § 1102.3 for the reference to Civil Code § 1102.2 in the last paragraph of Part V of the form. Prior to the 1996 amendment, Parts (A) and (B) in the Seller's Information portion of the form had read:

"A. The subject property has the items checked below (read across):

__Range	__Oven	__Microwave
__Dishwasher	__Trash Compactor	__Garbage Disposal
__Washer/Dryer Hookups	__Window Screens	__Rain Gutters
__Burglar Alarms	__Smoke Detector(s)	__Fire Alarm
__T.V. Antenna	__Satellite Dish	__Intercom
__Central Heating	__Central Air Cndtng.	__Evaporator Cooler(s)
__Wall/Window Air Cndtng.	__Sprinklers	__Public Sewer System
__Septic Tank	__Sump Pump	__Water Softener
__Patio/Decking	__Built-in Barbeque	__Gazebo
__Sauna	__Pool	__Spa __Hot Tub
__Security Gate(s)	__Automatic Garage Door Opener(s)*	__Number Remote Controls
Garage: __Attached	__Not Attached	__Carport
Pool/Spa Heater: __Gas	__Solar	__Electric
Water Heater: __Gas		__Private Utility or Other_____
Water Supply: __City	__Well	
Gas Supply: __Utility	__Bottled	

"Exhaust Fan(s) in _____ 220 Volt Wiring in _____ Fireplace(s) in _____
"Gas Starter _____ Roof(s): Type: _____ Age: _____ (approx.)
"Other: _____

"Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes __No. If yes, then describe.

(Attach additional sheets if necessary): _____

"B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? __Yes __No. If yes, check appropriate space(s) below.

__Interior Walls __Ceilings __Floors __Exterior Walls __Insulation __Roof(s) __Windows __Doors __Foundation __Slab(s) __Driveways __Sidewalks __Walls/Fences __Electrical Systems __Plumbing/Sewers/Septics __Other
Structural Components (Describe: _____)

"If any of the above is checked, explain. (Attach additional sheets if necessary): _____

"* This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code."

Additions or changes indicated by underline; deletions by asterisks * * *

Section 5 of Stats.1996, c. 926 (A.B.3026), provides:

"Section 1.5 of this bill incorporates amendments to Section 1102.6 of the Civil Code proposed by both this bill [operative July 1, 1997] and AB 3305 [Stats.1996, c. 925, which amends and, operative July 1, 1997, repeals and adds § 1102.6]. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 1102.6 of the Civil Code, and (3) this bill is enacted after AB 3305, in which case Section 1 of this bill shall not become operative."

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

Cross References

Water heater strapping, certification of earthquake resistance, see Health and Safety Code § 19211.

Law Review and Journal Commentaries

Review of selected 1989 California legislation. 21 Pac. L.J. 537 (1990).

Notes of Decisions

"As is" provisions 4
Duty to disclose 1
Failure to disclose 2
Legal ramifications 6
Nuisances 7
Ordinances 5
Waiver 3

1. Duty to disclose

Residential property owners had common law and statutory obligation in connection with sale of the property to make full disclosure regarding disturbing noises and commotion caused by next door neighbors, assuming such noises and commotion actually occurred and were of sufficient import to materially affect value or desirability of their property. Shapiro v. Sutherland (App. 2 Dist. 1998) 76 Cal.Rptr.2d 101, 64 Cal.App.4th 1534.

Residential property owners who, through employer's relocation program, sold their property to relocation management service could be liable under statute and common law to subsequent purchaser for failure to disclose neighborhood noise problem, despite lack of privity between owners and purchaser; owners knew or should have known that relocation service intended to sell property as quickly as possible and owners had every reason to expect that their written statutory disclosure statement would be delivered to a purchaser when such purchaser was located. Shapiro v. Sutherland (App. 2 Dist. 1998) 76 Cal. Rptr.2d 101, 64 Cal.App.4th 1534.

Vendor had duty to disclose information materially affecting value or desirability of property. Kovich v. Paseo Del Mar Homeowners' Assn. (App. 2 Dist. 1996) 48 Cal. Rptr.2d 758, 41 Cal.App.4th 863.

Vendor and his broker must reveal all factual matters bearing upon quality of property being sold which might be detrimental to value, including that property was constructed on filled land, that structure was in violation of building codes or zoning ordinances, that structure had been condemned, or that it was termite ridden. Sweat v. Hollister (App. 4 Dist. 1995) 43 Cal.Rptr.2d 399, 37 Cal. App.4th 603, modified on denial of rehearing, review denied.

Although neighborhood noise problems and nuisances caused by neighbor would be eliminated by compliance with injunction restricting neighbor's activities, Civil Code would require property owners to disclose to prospective purchasers in real estate transfer disclosure statement ... there were "neighborhood noise problems and other nuisances." Alexander v. McKnight (App. 4 Dist. 1992) 9 Cal.Rptr.2d 453, 7 Cal.App.4th 973.

If seller of residential property knows of facts materially affecting value or desirability of property which are known or accessible only to seller and seller also knows that such facts are not known to or within reach of diligent attention and observation of buyer, seller is under duty to disclose them to buyer. Alexander v. McKnight (App. 4 Dist. 1992) 9 Cal.Rptr.2d 453, 7 Cal.App.4th 973.

2. Failure to disclose

Residential property purchasers could not rely, as part of property purchase contract, upon vendor's statement on statutory disclosure form that vendor was unaware of any building code violations respecting property; form stated that it was not warranty of any kind by vendor and was not intended to be part of any contract between vendor and purchaser. Brasler v. Sparks (App. 3 Dist. 1993) 22 Cal.Rptr.2d 1, 17 Cal.App.4th 1756, as modified.

Alleged misrepresentations regarding foundation of house in fixer-upper language in advertisement, seller's agent's disclosure that he was not aware of any settling or other soil problems, and his failure to disclose that he was aware of any significant defects in foundation were not "assertions," required as element of negligent misrepresentation claim by purchasers; statements, at best, made only implied references to foundation, and alleged representations by omission were too remote for positive assertion requirement. Wilson v. Century 21 Great Western Realty (App. 1 Dist. 1993) 18 Cal.Rptr.2d 779, 15 Cal. App.4th 298, rehearing denied, review denied.

Failure to disclose negative fact when it can reasonably be said to have foreseeable depressing effect on value of property is tortious. Alexander v. McKnight (App. 4 Dist. 1992) 9 Cal.Rptr.2d 453, 7 Cal.App.4th 973.

3. Waiver

Purchaser may waive rights to disclosure under statute dealing with residential real estate transfers, as long as such waiver is knowing and explicit. Loughrin v. Superior Court (App. 4 Dist. 1993) 19 Cal.Rptr.2d 161, 15 Cal.App.4th 1188, modified on denial of rehearing.

4. "As is" provisions

Sale of real property "as is" is not equivalent of waiver of potential claims of common-law misrepresentation; "as is" sale simply means that purchaser accepts property in condition visible or observable by him, and although added provision in waiver clause indicating that buyer relies on his inspection of property presumably waives any ... gation vendor or his broker may otherwise have to

property for defects, and hence may avoid claim for negligent failure to know of and advise of such defects, augmented "as is" clause will not protect against claims of intentional misrepresentation, fraudulent concealment, or negligent concealment not related to failure to inspect. Loughrin v. Superior Court (App. 4 Dist. 1993) 19 Cal. Rptr.2d 161, 15 Cal.App.4th 1188, modified on denial of rehearing.

Use of "as is" clause in printed addendum to real estate sales contract did not insulate vendor from claims based upon statutory disclosure requirements where body of contract specifically referred to statutory disclosure statement and, by checked boxes, provided that vendor would furnish purchaser with such statement within five calendar days after purchaser's acceptance of contract, obligation to provide disclosure statement was restated in separate paragraph in same addendum which contained "as is" provision, and escrow instructions subsequently executed also provided that vendor was to provide transfer disclosure statement. Loughrin v. Superior Court (App. 4 Dist. 1993) 19 Cal.Rptr.2d 161, 15 Cal.App.4th 1188, modified on denial of rehearing.

5. Ordinances

Vendors and their brokers, having disclosed that house was in flood plain, had no further obligation to disclose that property was subject to restrictions on improvement or alteration in event of partial destruction; existence and effect of city ordinances regulating rebuilding or improvement of house in flood plain was information as readily available to purchasers as to vendors and their brokers. Sweat v. Hollister (App. 4 Dist. 1995) 43 Cal.Rptr.2d 399, 37 Cal.App.4th 603, modified on denial of rehearing, review denied.

6. Legal ramifications

Legal ramifications of factual nature of realty, and conclusion as to how they may adversely impact value, is not a "fact" subject to vendor's disclosure obligation. Sweat v. Hollister (App. 4 Dist. 1995) 43 Cal.Rptr.2d 399, 37 Cal.App.4th 603, modified on denial of rehearing, review denied.

7. Nuisances

A domestic violence shelter does not constitute a nuisance the existence of which must be disclosed by the seller of residential property. 79 Op.Atty.Gen. 112, June 20, 1996.

§ 1102.6a. Disclosure form

(a) On and after July 1, 1990, any city or county may elect to require disclosures on the form set forth in subdivision (b) in addition to those disclosures required by Section 1102.6. However, this section does not affect or limit the authority of a city or county to require disclosures on a different disclosure form in connection with transactions subject to this article pursuant to an ordinance adopted prior to July 1, 1990. Such an ordinance adopted prior to July 1, 1990, may be amended thereafter to revise the disclosure requirements of the ordinance, in the discretion of the city council or county board of supervisors.

(b) Disclosures required pursuant to this section pertaining to the property proposed to be transferred, shall be set forth in, and shall be made on a copy of, the following disclosure form:

LOCAL OPTION

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. _____ OF THE _____ CITY OR COUNTY CODE AS OF _____, 19__. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

SELLERS INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE CITY OR COUNTY OF _____. AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY, THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

1. _____

_____

_____

_____

2. _____

_____

_____

_____

(Example: Adjacent land is zoned for timber production which may be subject to harvest.)

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller _____ Date _____
Seller _____ Date _____

II

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____ Date _____
Seller _____ Date _____ Buyer _____ Date _____

Agent (Broker Representing Seller) _____ By _____ Date _____
(Associate Licensee or Broker-Signature)

Agent (Broker Obtaining the Offer) _____ By _____ Date _____
(Associate Licensee or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

(c) This section does not preclude the use of addenda to the form specified in subdivision (b) to facilitate the required disclosures. This section does not preclude a city or county from using the disclosure form specified in subdivision (b) for a purpose other than that specified in this section.

(Added by Stats.1989, c. 171, § 2.)

Cross References

Water heater strapping, certification of earthquake resistance, see Health and Safety Code § 19211.

Law Review and Journal Commentaries

Review of selected 1989 California legislation. 21 Pac. L.J. 537 (1990).

§ 1102.6b. Disclosure to prospective purchaser of continuing lien securing special tax levy

(a) This section applies to all transfers of real property for which all of the following apply:

(1) The transfer is subject to this article.

(2) The property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

(3) A notice is not required pursuant to Section 53341.5 of the Government Code.

(b) In addition to other disclosure required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a disclosure notice concerning the special tax as provided for in Section 53340.2 of the Government Code from each local agency which levies a special tax pursuant to the Mello-Roos Community Facilities Act on the property being transferred, and

shall deliver that notice or those notices to the prospective purchaser, as long as the notices are made available by the local agency.

(c) If a disclosure received pursuant to subdivision (b) has been delivered to the transferee, a seller or his or her agent is not required to provide additional information concerning, and information in the disclosure shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the transferee regarding the special tax and the district. Notwithstanding subdivision (b), nothing in this section imposes a duty to discover a special tax or district not actually known to the agents.

(Added by Stats.1992, c. 772 (S.B.1464), § 1.3, operative July 1, 1993.)

Law Review and Journal Commentaries

Review of selected 1992 California legislation. 24 Pac. L.J. 1019 (1993).

§ 1102.6c. Natural hazard disclosure statement; properties within hazardous areas

(a) This section shall apply only to any real property that is subject to one or more of the following:

(1) Section 8589.3 of the Government Code.

(2) Section 8589.4 of the Government Code.

(3) Section 51183.5 of the Government Code.

(4) Section 2621.9 of the Public Resources Code.

(5) Section 2694 of the Public Resources Code.

(6) Section 4136 of the Public Resources Code.

(b) In addition to the disclosure required pursuant to Section 1102.6, the transferor of any real property that is subject to this section, or his or her agent, shall deliver to the prospective transferee the following natural hazard disclosure statement:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property: _____

The seller and his or her agent(s) disclose the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the seller and his or her agent(s) based on their knowledge and maps drawn by the state. This information is a disclosure and is not intended to be part of any contract between the buyer and the seller.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Any type Zone 'A' or 'V') designated by the Federal Emergency Management Agency.

Yes _____ No _____ Do not know and information not available from local jurisdiction _____

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8589.5 of the Government Code.

Yes _____ No _____ Do not know and information not available from local jurisdiction _____

A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes _____ No _____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes _____ No _____
AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.
Yes _____ No _____
A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public Resources Code.
Yes (Landslide Zone) _____ Yes (Liquefaction Zone) ____
No _____ Map not yet released by state _____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

Seller represents that the information herein is true and correct to the best of the seller's knowledge as of the date signed by the seller.

Signature of Seller _____ Date _____

Agent represents that the information herein is true and correct to the best of the agent's knowledge as of the date signed by the agent.

Signature of Agent _____ Date _____

Signature of Agent _____ Date _____

Buyer represents that he or she has read and understands this document.

Signature of Buyer _____ Date _____

(c) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The seller or seller's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(d) The disclosure required pursuant to this section may be provided by the seller and seller's agent in the Local Option Real Estate Disclosure Statement provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warning that is required by this section.

(e) The disclosure required pursuant to this section is only a disclosure between the seller, the seller's agents, and the buyer, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(g) In any transaction in which a seller has accepted, prior to June 1, 1998, an offer to purchase, the seller, or his or her agent, shall be deemed to have complied with the requirement of subdivision (b) if the seller or agent delivers to the prospective transferee a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.

(Added by Stats.1998, c. 65 (A.B.1195), § 2, eff. June 9, 1998.)

Historical and Statutory Notes

1998 Legislation

Sections 17, 18, 20, and 21 of Stats.1998, c. 65, provide:

"Sec. 17. The Legislature finds and declares that state law requires several different state departments and agencies to conduct natural hazard mapping and information programs, based on their respective scientific and professional competencies. The Legislature finds and declares that city and county planning agencies sometimes have difficulty using the maps and information produced by state departments and agencies regarding natural haz-ds because the maps may be at different scales, use ·erent projections, or are otherwise incompatible. The Legislature finds and declares that the lack of compatible maps sometimes makes it difficult for city and county planning agencies to make information regarding natural hazards readily available to landowners, their agents, and the public. Therefore, the Legislature finds and declares that there is a need for state officials to coordinate their natural hazard mapping and information programs to make them more effective. The Legislature encourages the Secretary of the Resources Agency to provide coordination and leadership among the state departments and agencies that conduct natural hazard mapping and mation programs.

"Sec. 18. The provisions of this act shall become operative on June 1, 1998, except that Sections 1, 3, 6, and 10 shall be operative upon the effective date of Chapter 7 of the Statutes of 1997, First Extraordinary Session [Chapter 7 was effective Dec. 13, 1997]."

"Sec. 20. It is the intent of the Legislature that the provisions of this act shall supersede the provisions of Chapter 7 of the Statutes of 1997, First Extraordinary Session, in their entirety and, to that intent, the provisions of that chapter shall not become operative.

"Sec. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect [June 9, 1998]. The facts constituting the necessity are:

"In order to resolve ambiguity regarding the effective date for important real estate disclosures and to ensure that comprehensive disclosure of information regarding risk of natural disaster hazards is made available to prospective homebuyers, it is necessary that this act take effect immediately."

Another § 1102.6c, added by Stats.1997-98, 1st Ex. Sess., c. 7 (A.B.6), § 1, relating to natural hazard disclosure statements, was repealed by Stats.1998, c. 65 (A.B. 1195), § 1. See this section.

Section 14 of Stats.1997-98, 1st Ex.Sess., c. 7 (A.B.6), eff. Dec. 13, 1997, provided:

"Sections 1, 2, 4, 7, 8, 9, 10, 11, and 12 of this act shall become operative on March 1, 1998."

The title of act of Stats.1998, c. 2 (S.B.71), an urgency statute eff. Feb. 28, 1998, provides:

"AN ACT to amend Section 14 of Chapter 7 of the 1997-98 First Extraordinary Session, relating to natural hazards, and declaring the urgency thereof, to take effect immediately."

The first paragraph following the enacting clause of Stats.1997, c. 2 (S.B.71), provides:

"Sec. 14. Sections 1, 2, 4, 7, 8, 9, 10, 11, and 12 of Chapter 7 of the 1997-98 First Extraordinary Session shall become operative on June 1, 1998."

§ 1102.7. Good faith required

Each disclosure required by this article and each act which may be performed in making the disclosure, shall be made in good faith. For purposes of this article, "good faith" means honesty in fact in the conduct of the transaction.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

§ 1102.8. Specification of items for disclosure not limitation on other disclosure obligations

The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

§ 1102.9. Amendment of disclosures

Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to * * * Section 1102.3.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1996, c. 240 (A.B.2383), § 3.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

1996 Legislation

The 1996 amendment substituted "Section 1102.3" for "the provisions of section 1102.2".

§ 1102.10. Delivery of disclosures; personal delivery or mail

Delivery of disclosures required by this article shall be by personal delivery to the transferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee shall be deemed delivery to the transferee, unless provided otherwise by contract.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

§ 1102.11. Escrow agent not deemed agent for purposes of disclosure; exception

Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the disclosure requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of such an agency shall be governed by the written agreement.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

§ 1102.12. Licensed real estate brokers as agents in transaction; delivery of disclosure; advising transferee of rights to disclosure; record

(a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, § 6.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

1986 Legislation

The 1986 amendment substituted "delivering disclosures" for "making disclosures" in both sentences of subd. (b).

§ 1102.13. Failure to comply with article; transfer not invalidated; damages

No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation

For operative provision of Stats.1985, c. 1574, see note under § 1102.

Notes of Decisions

Actual damages 4
Attorney fees 3
Judgment 2
Limitations 1
Scope of duty 5

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1. Limitations

Home buyer's claim against real estate broker representing seller, for alleged defects in real estate transfer disclosure statement that broker was required to provide under California statute, was subject to two-year statute of limitations on claims for real estate broker's breach of statutory duties. Loken v. Century 21-Award Properties (App. 4 Dist. 1995) 42 Cal.Rptr.2d 683, 36 Cal.App.4th 263, review denied, certiorari denied 116 S.Ct. 912, 516 U.S. 1113, 133 L.Ed.2d 843.

2. Judgment

Having previously announced that it would enter judgment on the pleadings in favor of broker on home buyer's per se nondisclosure claims, trial court could not, without miscarriage of justice, change its mind after presentation of evidence and enter judgment in favor of home buyer on per se claims; effect of trial court's change of heart was to deprive broker, who had relied on trial court's pronouncement in not presenting evidence on home buyer's per se claims, of opportunity to defend himself. Loken v. Century 21-Award Properties (App. 4 Dist. 1995) 42 Cal.Rptr.2d 683, 36 Cal.App.4th 263, review denied, certiorari denied 116 S.Ct. 912, 516 U.S. 1113, 133 L.Ed.2d 843.

3. Attorney fees

Claim that vendors' and their brokers' disclosure statement was inadequate "arose" out of agreement of purchase of real estate, as required for award of attorney fees under the agreement, since claim would not have come about absent the agreement. Sweat v. Hollister (App. 4 Dist. 1995) 43 Cal.Rptr.2d 399, 37 Cal.App.4th 603, modified on denial of rehearing, review denied.

4. Actual damages

Term "actual damages" within meaning of damages recoverable for deceit in sale of property means compensatory damages, rather than damages as measured by benefit-of-bargain rule. Saunders v. Taylor (App. 4 Dist. 1996) 50 Cal.Rptr.2d 395, 42 Cal.App.4th 1538.

5. Scope of duty

Statutes governing inspections and disclosures incident to sales of real property did not impose duty on real estate sales agents to inspect more than unit offered for sale, such as common areas to planned development. Padgett v. Phariss (App. 4 Dist. 1997) 63 Cal.Rptr.2d 373, 54 Cal.App.4th 1270, review denied.

§ 1102.14. Definitions

(a) As used in this article, "listing agent" means listing agent as defined in subdivision (f) of Section 1086.

(b) As used in this article, "selling agent" means selling agent as defined in subdivision (g) of Section 1086, exclusive of the requirement that the agent be a participant in a multiple listing service as defined in Section 1087.

(Added by Stats.1986, c. 460, § 7.)

§ 1102.15. Former federal or state ordnance locations; definition

The seller of residential real property subject to this article who has actual knowledge of any former federal or state ordnance locations within the neighborhood area shall give written notice of that knowledge as soon as practicable before transfer of title.

For purposes of this section, "former federal or state ordnance locations" means an area identified by an agency or instrumentality of the federal or state government as an area once used for military training purposes which may contain potentially explosive munitions. "Neighborhood area" means within one mile of the residential real property.

The disclosure required by this section does not limit or abridge any obligation for disclosure created by any other law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(Added by Stats.1989, c. 294, § 1.)

Law Review and Journal Commentaries

Review of selected 1989 California legislation. 21 Pac. L.J. 542 (1990).

§ 1102.16. Window security bars and safety release mechanism; disclosure

The disclosure of the existence of any window security bars and any safety release mechanism on those window security bars shall be made pursuant to Section 1102.6 or 1106.6a of the Civil Code.

(Added by Stats.1996, c. 926 (A.B.3026), § 2, operative July 1, 1997.)

§ 1106. Subsequently acquired title; passage by operation of law

Notes of Decisions

1. In general

Where vendor's deed granted fee simple to purchasers, although vendor, at time of deed, did not hold oil and gas rights, vendor's subsequent reacquisition of oil and gas rights resulted in passage of such rights to purchasers under doctrine of after-acquired title, and vendor's reason for reacquiring oil and gas rights was irrelevant to such operation of law. Schwenn v. Kaye (App. 2 Dist. 1984) 202 Cal.Rptr. 374, 155 Cal.App.3d 949.

2. Easements

Fact that grantor did not own property at time he attempted to grant easement did not prevent grantees from asserting interest in property, where grantor subsequently became owner of property; under doctrine of after-acquired title, once grantor became owner of property, he and his successors were estopped from contesting passage of easement to grantees. Noronha v. Stewart (App. 2 Dist. 1988) 245 Cal.Rptr. 94, 199 Cal.App.3d 485, review denied.

§ 1107. Conclusiveness of grant; exception

Notes of Decisions

2. Bona fide purchasers—In general

Good faith encumbrancer for value who first records takes its interest in real property free and clear of unrecorded interests. First Fidelity Thrift & Loan Ass'n v. Alliance Bank (App. 2 Dist. 1998) 71 Cal.Rptr.2d 295, 60 Cal.App.4th 1433, review denied.

9. Judgment or attachment

Abstract of judgment did not attach to real property which judgment debtor conveyed by quitclaim deed if deed was delivered before abstract was recorded. Casey v. Gray (App. 2 Dist. 1993) 16 Cal.Rptr.2d 538, 13 Cal.App.4th 611, modified on denial of rehearing.

§ 1109. Defeated grant upon condition subsequent; reconveyance

Library References

Recommendations relating to marketable title of real property, 16 Cal.L.Rev.Comm. Reports 401 (1982).

§ 1112. Grant of land bounded by highway

Notes of Decisions

Abandonment 12.5

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2. Intent of parties

Evidence supported finding that grantor did not intend to convey any portion of abandoned street in conveyance of 100-foot right-of-way to railroad, so that right-of-way began at south edge of abandoned street, and did not include south half of abandoned street in addition to the described property; grant of specific number of feet carved out of contiguous lots evidenced grantor's intent that street not be included in conveyance, and evidence indicated that grantor planted orange grove to south line of abandoned street and that railroad placed survey stakes beginning at edge of abandoned street to mark four corners of right-of-way. Baker v. Ramirez (App. 5 Dist. 1987) 235 Cal.Rptr. 857, 190 Cal.App.3d 1123.

Extrinsic evidence was properly admitted to determine whether parties intended 100-foot right-of-way granted to railroad to begin at center line of abandoned street or at its south edge, where deed was ambiguous with respect to location of right-of-way. Baker v. Ramirez (App. 5 Dist. 1987) 235 Cal.Rptr. 857, 190 Cal.App.3d 1123.

Where deeds by which landowner acquired title to all of parcel showed no intention to except sidewalk, parkway, or soil under the street from the transfer, deeds transferred those areas to the owner. Jones v. Deeter (App. 2 Dist. 1984) 199 Cal.Rptr. 825, 152 Cal.App.3d 798.

4. Alleys

Statute pursuant to which transfer of land bounded by highway passes title of person whose estate is transferred to soil of highway to center, unless different intent appears from grant, applies to alleys. Besneatte v. Gourdin (App. 4 Dist. 1993) 21 Cal.Rptr.2d 82, 16 Cal.App.4th 1277.

8. Metes and bounds descriptions

Statutory presumption that owner of land bounded by road or street is presumed to own center of way and that transfer of land bounded by highway includes land to center of highway did not apply where grantor used metes and bounds description to convey property; however, metes and bounds description was not determinative of grantor's intent. Besneatte v. Gourdin (App. 4 Dist. 1993) 21 Cal.Rptr.2d 82, 16 Cal.App.4th 1277.

Statute establishing rebuttable presumption that owner of land bounded by road or street is presumed to own to center of way includes alleys. Besneatte v. Gourdin (App. 4 Dist. 1993) 21 Cal.Rptr.2d 82, 16 Cal.App.4th 1277.

12.5. Abandonment

Conveyance of contiguous lots located south of abandoned street included south half of abandoned street, where north half of street had become part of lots located north of street at time street was abandoned, south half of street had become part of lots located south of abandoned street, no portion of street vested in railroad at time 100-foot right-of-way was conveyed to railroad by person who had owned the lots located north and south of the abandoned street, and no prior deeds specifically conveyed the street. Baker v. Ramirez (App. 5 Dist. 1987) 235 Cal.Rptr. 857, 190 Cal.App.3d 1123.

Owner of lots bisected by street was entitled to possess and occupy the street upon its abandonment, with the north half of street becoming part of lots located north of street and south half of street becoming part located south of street. Baker v. Ramirez (App. 5 Dist. 1987) 235 Cal.Rptr. 857, 190 Cal.App.3d 1123.

§ 1113. Grant; implied covenants

Notes of Decisions

2. Prior conveyances

Natural Resources, Inc. v. Wineberg, C.A.9 (Cal.)1965, 349 F.2d 685, [main volume] certiorari denied 86 S.Ct. 617, 382 U.S. 1010, 15 L.Ed.2d 525.

3. Encumbrances—In general

Mere fact that purchaser and title insurer may have known during escrow of possibility of restrictive covenant on property did not necessarily preclude title insurer from recovering in subrogation for vendor's breach of implied covenant arising when vendor conveyed property to purchaser by unrestricted grant deed without excepting restrictive covenant. Fidelity National Title Ins. Co. v. Miller (App. 4 Dist. 1989) 264 Cal.Rptr. 17, 215 Cal.App.3d 1163, rehearing denied.

4. —— Application of covenant against encumbrances

Question of whether title insurer was entitled to equitable subrogation raised fact issue in insurer's suit against vendor who conveyed property by unrestricted grant deed and thus impliedly covenanted that there were no encumbrances against property, even though vendor disclosed to purchaser and title insurer potential existence of restrictive covenant granting neighboring property "view easement"; fact finder could reasonably determine that any act by title insurer in issuing title insurance policy that did not mention restrictive covenant was one of omission, while act of vendor in conveying property without restriction was one of commission that was genesis of problem and that vendor's retaining entire consideration would amount to unjust enrichment. Fidelity National Title Ins. Co. v. Miller (App. 4 Dist. 1989) 264 Cal.Rptr. 17, 215 Cal.App.3d 1163, rehearing denied.

In title insurer's subrogation action against vendor, vendor was not entitled to summary judgment in his favor, on theory that he and purchaser impliedly agreed that grant deed to property would not contain implied covenant against encumbrances and thus there was no basis for subrogation suit after title insurer paid purchaser's claim when restrictive covenant was subsequently discovered; even assuming that implied covenant could be deleted by implied agreement, existence of implied agreement required resolution of triable fact issues and vendor did not show that grant deed was ambiguous or uncertain. Fidelity National Title Ins. Co. v. Miller (App. 4 Dist. 1989) 264 Cal.Rptr. 17, 215 Cal.App.3d 1163, rehearing denied.

§ 1114. Incumbrances defined

Notes of Decisions

1. In general

"Encumbrance" is defined as any right to, or interest in, land which may subsist in another to diminution of its value, but consistent with passing of the fee. 1119 Delaware v. Continental Land Title Co. (App. 2 Dist. 1993) 20 Cal.Rptr.2d 438, 16 Cal.App.4th 992, review denied.

"Encumbrance" is not limited to those specifically mentioned in Civil Code definition. 1119 Delaware v. Continental Land Title Co. (App. 2 Dist. 1993) 20 Cal.Rptr.2d 438, 16 Cal.App.4th 992, review denied.

3. Liens

Presence of hazardous material on land did not constitute an "encumbrance" on title covered by title insurance policy, even though state and federal agencies could impose liens upon property for violation of environmental laws. Lick Mill Creek Apartments v. Chicago Title Ins. Co. (App. 6 Dist. 1991) 283 Cal.Rptr. 231, 231 Cal.App.3d 1654, review denied.

§ 1133. Property subject to blanket encumbrance but exempt from compliance with § 11013.2; notice to prospective purchaser or lessee; civil and criminal liability

(a) If a lot, parcel, or unit of a subdivision is subject to a blanket encumbrance, as defined in Section 11013 of the Business and Professions Code, but is exempt from a requirement of compliance with Section 11013.2 of the Business and Professions Code, the subdivider, his or her agent, or representative, shall not sell, or lease for a term exceeding five years, the lot, parcel, or unit, nor cause it to be sold, or leased for a term exceeding five years, until the prospective purchaser or lessee of the lot, parcel, or unit has been furnished with and has signed a true copy of the following notice:

BUYER/LESSEE IS AWARE OF THE FACT THAT THE LOT, PARCEL, OR UNIT WHICH HE OR SHE IS PROPOSING TO PURCHASE OR LEASE IS SUBJECT TO A DEED OF TRUST, MORTGAGE, OR OTHER LIEN KNOWN AS A "BLANKET ENCUMBRANCE".

IF BUYER/LESSEE PURCHASES OR LEASES THIS LOT, PARCEL, OR UNIT, HE OR SHE COULD LOSE THAT INTEREST THROUGH FORECLOSURE OF THE BLANKET ENCUMBRANCE OR OTHER LEGAL PROCESS EVEN THOUGH BUYER/LESSEE IS NOT DELINQUENT IN HIS OR HER PAYMENTS OR OTHER OBLIGATIONS UNDER THE MORTGAGE, DEED OF TRUST, OR LEASE.

Date _____ Signature of Buyer or Lessee

(b) "Subdivision," as used in subdivision (a), means improved or unimproved land that is [illegible]d or proposed to be divided for the purpose of sale, lease, or financing, whether immediate or fut[illegible]two