CALIFORNIA ASSOCIATION OF REALTORS®

SAN FRANCISCO GENERAL INFORMATION REGARDING VACANT UNITS DISCLOSURE

(C.A.R. Form SF-GIVU, 1/11)

This disclosure concerns the residential property situated in the City of San Francisco, County of San Francisco, State of California, described as _____ _____ ("Property").

1. VACANT UNITS DISCLOSURE REQUIREMENTS AND PENALTIES:

A. San Francisco law requires a seller who is selling a building containing two or more residential units, one or more of which units will be delivered vacant, to disclose in writing information regarding the units which are vacant at the time of offering the building for sale and before entering into a contract with a buyer. The required disclosure may also be made on any flier or other document describing the property which is made available to prospective purchasers at each open house and property tour for buyers or Real Estate licensees.

B. DISCLOSURE TO IDENTIFIED BUYER: Seller must disclose to a buyer the specific legal ground(s) for the termination of the tenancy of each residential unit to be delivered vacant at the close of escrow. The Vacant Units Disclosure form (C.A.R. Form VUD) may be used by sellers to comply with the law. This disclosure must be made prior to entering into a contract for the sale of a property subject to this disclosure requirement (Section 37.10A(f) of the Rent Ordinance).

C. DISCLOSURE TO ANY PROSPECTIVE PURCHASER:

(1) Seller must disclose to any prospective purchaser: (a) the specific legal ground(s) for the termination of the tenancy of each residential unit to be delivered vacant at the close of escrow; and (b) whether the unit(s) was occupied by an elderly or disabled tenant at the time the tenancy was terminated. This disclosure must be made when offering for sale any property subject to this disclosure requirement (Section 37.10A(g) of the Rent Ordinance).

(2) "Elderly" means a tenant defined as elderly by San Francisco Administrative Code Sections 37.9(i)(1)(A), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or a tenant defined as "senior" by San Francisco Subdivision Code section 1359(d).

(3) "Disabled" means a tenant defined as disabled by San Francisco Administrative Code Sections 37.9(i)(1)(B)(i), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or by San Francisco Subdivision Code Section 1359(d). These sections are set forth at the end of this document.

D. The failure to make the required disclosures may render the seller guilty of a misdemeanor and can result in a fine and imprisonment.

2. REASONS FOR TERMINATING THE TENANCY: The following provides a general overview of the information to be disclosed as to termination of tenancy. The information provided should not be a substitute for legal advice which should be obtained in order to properly make the required disclosures. Brokers do not provide legal advice.

A. Just Cause For Eviction

Under the San Francisco Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), in order to evict a tenant, a landlord must have a "just cause" reason that is the landlord's dominant motive for pursuing the eviction. Below are the 15 "just cause" reasons (see Section 37.9(a)(1) through (15) of the Rent Ordinance, which can be found on the San Francisco Rent Board website at http://www.sfrb.org/index.aspx?page=1240). For any vacancy where a tenant had a right to reoccupy the unit (numbers 8, 11, and 14 below), Seller should obtain legal advice about any additional disclosure which may be required.

1. The tenant has failed to pay the rent due (§37.9(a)(1)).
2. The tenant has violated a term of the rental agreement or lease (§37.9(a)(2)).
3. The tenant is creating or permitting a nuisance (§37.9(a)(3)).
4. The tenant is using the unit for an illegal purpose (§37.9(a)(4)).
5. The tenant refuses to execute a written extension or renewal of the lease (§37.9(a)(5)).
6. The tenant has refused the landlord reasonable access to the unit (§37.9(a)(6)).
7. The person holding over at the end of the lease term is a subtenant who has not been approved by the landlord (§37.9(a)(7)).
8. The landlord or a close relative of the landlord wants to move into the unit as his/her/their primary residence (§37.9(a)(8)).
9. The landlord seeks to sell a unit which has lawfully been converted to a condominium (§37.9(a)(9)).
10. The landlord seeks to demolish or otherwise permanently remove the unit from rental housing use (§37.9(a)(10)).
11. The landlord seeks temporarily to remove the unit from housing use to carry out capital improvements or rehabilitation work (§37.9(a)(11)).
12. The landlord seeks to carry out substantial rehabilitation (§37.9(a)(12)).
13. The landlord seeks to withdraw from rent or lease all rental units on the property pursuant to the Ellis Act (§37.9(a)(13)).

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14. The landlord seeks to temporarily recover possession of the unit for the purpose of abating lead paint, as required by the San Francisco Health Code (§37.9(a)(14)).

15. The landlord seeks to recover possession of the unit to demolish or to otherwise permanently remove the rental unit from housing use in accordance with the terms of a development agreement entered into with the City and County of San Francisco (§37.9(a)(15)).

B. Owner Resides With Tenant

A landlord who resides with a tenant in the same rental unit may evict that tenant without having one of the just cause reasons listed above. In the disclosure, the seller/landlord should check the box which indicates a termination based on Section 37.9(b) of the Rent Ordinance.

C. Voluntary Termination by Tenant

Sellers who obtain a vacant unit because the tenant voluntarily vacated the unit pursuant to a notice given by the tenant should so indicate on the disclosure form.

Sellers who obtain a vacant unit pursuant to a settlement agreement (commonly known as "Buy-Out" agreement) entered into with the tenant are obligated to make a disclosure but the nature of that disclosure may depend on the terms of the settlement agreement. IT IS STRONGLY RECOMMENDED THAT A REAL ESTATE ATTORNEY ADVISE YOU ABOUT THE SUBSTANCE OF ANY SUCH DISCLOSURE AFTER REVIEWING THE SETTLEMENT AGREEMENT.

D. Effect on Condominium Conversion

Warning: If the tenancy of an elderly or disabled tenant (as defined under Section 1396.2 of the San Francisco Subdivision Code) was terminated pursuant to Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), 37.9(a)(13), the property may not be eligible for condominium conversion. IT IS STRONGLY RECOMMENDED THAT A REAL ESTATE ATTORNEY ADVISE YOU ABOUT ANY CONSEQUENCES OF SUCH TENANCY TERMINATION.

3. PROVISIONS OF APPLICABLE LAW

Below are provisions applicable to this General Information Regarding Vacant Units Disclosure. All parties should check to make sure that the following provisions have not been amended or altered.

A. Section 37.10A(f): It shall be unlawful for a landlord to knowingly fail to disclose in writing to the buyer, prior to entering into a contract for the sale of any property consisting of two or more residential units, the specific legal ground(s) for the termination of the tenancy of each residential unit to be delivered vacant at the close of escrow.

B. Section 37.10A(g): It shall be unlawful for a landlord/owner, when offering a property for sale in the City and County of San Francisco that includes two or more residential units, to knowingly fail to disclose in writing to any prospective purchaser:

(1) The specific legal ground(s) for the termination of the tenancy of each residential unit to be delivered vacant at the close of escrow; and,

(2) Whether the unit was occupied by an elderly or disabled tenant at the time the tenancy was terminated. For purposes of this section 37.10A(i), "elderly" means a tenant defined as elderly by San Francisco Administrative Code section 37.9(i)(1)(A), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or a tenant defined as "senior" by San Francisco Subdivision Code section 1359(d). For purposes of this section 37.10A(i), "disabled" means a tenant defined as disabled by San Francisco Administrative Code section 37.9(i)(1)(B)(i), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or by San Francisco Subdivision Code section 1359(d).

Any disclosure required by this Subsection (i) that is made on a flier or other document describing the property which is made available to prospective purchasers at each open house and at any tour through the property will constitute compliance with the disclosure requirements of this Subsection (i).

C. Section 37.10A(h): "Any person who violates Section 37.10A(a),(b),(c) or (f) is guilty of a misdemeanor and shall be punished by a mandatory fine of one thousand dollars ($1,000.00), and in addition to such fine may be punished by imprisonment in the County Jail for a period of not more than six months. Each violation shall constitute a separate offense."

D. Section 37.9(i): "The following additional provisions shall apply to a landlord who seeks to recover a rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

(1) A landlord may not recover possession of a unit from a tenant under Section 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:

(A) Is 60 years of age or older and has been residing in the unit for 10 years or more; or

(B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing in the unit for 10 years or more, or is catastrophically ill within the meaning of Section 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

(i) A disabled tenant is defined for purposes of this Section 37.9(i)(1)(B) as a person who is disabled or blind within the meaning of the federal Supplemental Security Income/California State Supplemental Program (SSI/SSP), and who is determined by SSI/SSP to qualify for that program or who satisfies such requirements through any other method of determination as approved by the Rent Board;

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(ii) A catastrophically ill tenant is defined for purposes of this Section 37.9(i)(1)(B) as a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is suffering from a life threatening illness as certified by his or her primary care physician."

E. Section 37.9A(e)(1)(C): "Notwithstanding Subsection 37.9A(e)(1)(A), and irrespective of the size of the unit, any tenant who receives a notice to quit under Section 37.9(a)(13) and who, at the time such notice is served, is 62 years of age or older, or who is disabled within the meaning of Section 12955.3 of the California Government Code, shall be entitled to receive $3,000.00, $1,500.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment, and $1,500.00 of which shall be paid when the tenant vacates the unit."

F. Section 37.9A(e)(2)(D): "Notwithstanding Subsections 37.9A(e)(2)(A) and (B), any tenant who, at the time the notice of intent to withdraw rental units is filed with the Board, is 62 years of age or older, or who is disabled within the meaning of Section 12955.3 of the California Government Code, shall be entitled to receive an additional payment of $3,000.00, $1,500.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment, and $1,500.00 of which shall be paid when the tenant vacates the unit."

G. Section 37.9A(e)(3)(C): "Notwithstanding Subsections 37.9A(e)(3)(A) and (B), any tenant who, at the time the notice of intent to withdraw rental units is filed with the Board, is 62 years of age or older, or who is disabled within the meaning of Section 12955.3 of the California Government Code, shall be entitled to receive an additional payment of $3,000.00, $1,500.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the tenant of entitlement to the relocation payment, and $1,500.00 of which shall be paid when the tenant vacates the unit."

H. Section 12955.3 of the California Government Code: For purposes of this part, "disability" includes, but is not limited to, any physical or mental disability as defined in Section 12926.

I. Section 12926(i) of the California Government Code: "'Mental disability'" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) 'Limits' shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) 'Major life activities' shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

'Mental disability' does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs."

J. Section 12926(k) of the California Government Code: "'Physical disability'" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) 'Limits' shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) 'Major life activities' shall be broadly construed and includes physical, mental, and social activities and working.

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(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) 'Physical disability' does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(7) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k)."

K. Section 1359(d) of the San Francisco Subdivision Code: In addition to the requirements of Subsection (c), the owners of record of a two-unit building conversion that qualify for the exemption from Article 9 must certify under penalty of perjury and the Department must verify with the Rent Stabilization and Arbitration Board, and with the Human Rights Commission as applicable, that since November 16, 2004, no eviction as defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior, disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For purposes of this Subsection, a "senior" shall be a person who is 60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Subsection as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life-threatening illness as certified by his or her primary care physician.

L. Title 42 U.S.C. Section 12102(2)(A): Under Section 12102(1), the term "disability" means, with respect to an individual (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. Section 12102(2)(A) provides that "for purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working."

By signing below, Buyer acknowledge(s) that Seller has read, understands, and received a copy of this General Information Regarding Vacant Units Disclosure form.

Date _____ Date _____

SELLER _____ SELLER _____

_____ _____

(Print name) (Print name)

_____

(Address)

Date _____ Date _____

POTENTIAL BUYER _____ POTENTIAL BUYER _____

_____ _____

(Print name) (Print name)

_____

(Address)

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