Agent Visual Inspection and Disclosure Forms
Listing broker has a duty to buyer to disclose what listing broker should have known.

Facts: visible netting on hillside was indication of slide movement and instability triggering duty to disclose.

Easton v Strassburger (1985)
Duty to Inspect and Disclose

Legislation creates broker duty to inspect and disclose

No required form of disclosure

“It is the duty of a real estate broker or salesperson, ... to a prospective purchaser of residential real property comprising one to four dwelling units, or a manufactured home ... to conduct a reasonably competent and diligent visual inspection of the property offered for sale and to disclose to that prospective purchaser all facts materially affecting the value or desirability of the property that an investigation would reveal, ...”
Transfer Disclosure Statement

TDS Form created by legislation and requires:

- Seller to complete Sections I & II
- Listing agent to complete Section III
- Cooperating (buyer’s) agent to complete Section IV
C.A.R. supplements TDS with AVID

TDS includes optional paragraph in sections III and IV to add the AVID form for a room-by-room agent disclosure
Identifies actions the agent will not do

- No off-site
- No public records
- No common areas, roof and attic
- No inaccessible areas (chimneys, behind locked doors, under rugs or furniture)

Puts buyer on notice of buyer’s own duty
- Use AVID to make disclosures following inspection

- All paragraph should have a marking, even if “N/A” (e.g., only 2 bedrooms)

- Indicate “Nothing Noted” if no defects detected
Agent has a duty to reveal any known material fact or defect

Consider non-visual issues
  odors
    near manufacturing facility or animal farm, for example
  sounds
    near airport or air base, for example

Duty to inspect includes accessible and visible exterior
  walls, but not necessarily roof
Example: Disclosures 1 + 2

- Identify what is visible, do NOT speculate on cause
- Keep adjectives to a minimum

<table>
<thead>
<tr>
<th>YES</th>
<th>Greenish/black discoloration in kitchen sink.</th>
<th>Stain on living room ceiling near dining area.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NO</td>
<td>Mold of the XYZ variety in kitchen.</td>
<td>Water stain in living room caused by leaky upper level window or bathtub.</td>
</tr>
</tbody>
</table>
**Example: Disclosures 3 + 4**

<table>
<thead>
<tr>
<th>YES</th>
<th>Uneven floor near entrance to bedroom.</th>
<th>Crack in second bedroom near baseboard.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NO</td>
<td>15-degree sloped floor indicative of shifting slab.</td>
<td>Large (or small) structural (or cosmetic) crack caused by earthquake (or bad paint job).</td>
</tr>
</tbody>
</table>
Agent completes forms (TDS and/or AVID) for brokerage company.

Tip: There is almost always some defect or deficiency in a property. Pause before selecting the no noted deficiency box!
Advantage of using AVID

- Establishes compliance with Civil Code
- If claim is made against broker, the AVID may refresh the agent’s memory of the events
- In lawsuit, may help establish agent credibility
Quick Guide
Agent Visual Inspection & Disclosure Forms

Q & A

Real Estate Licensee’s Duty to Inspect Residential Property