

Agent Visual Inspection and Disclosure Forms



C.A.R.
LEGAL
TOOLS



Easton v Strassburger (1985)

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



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



 **CALIFORNIA ASSOCIATION OF REALTORS®** **REAL ESTATE TRANSFER DISCLOSURE STATEMENT**
(CALIFORNIA CIVIL CODE §1102, ET SEQ.)
(C.A.R. Form TDS, Revised 4/14)

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 (date) _____. 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 and other disclosures required by law, including the Natural Hazard Disclosure Report/Statement that may include airport annoyances, earthquake, fire, flood, or special assessment information, 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: _____


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 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.

Agent Visual Inspection Disclosure (AVID)

- ❑ 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

 **CALIFORNIA ASSOCIATION OF REALTORS®**

AGENT VISUAL INSPECTION DISCLOSURE (CALIFORNIA CIVIL CODE § 2079 ET SEQ.)
For use by an agent when a transfer disclosure statement is required or when a seller is exempt from completing a TDS (C.A.R. Form AVID, Revised 11/13)

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

☐ This Property is a duplex, triplex, or fourplex. This AVID form is for unit # _____. Additional AVID forms required for other units.

Inspection Performed By (Real Estate Broker Firm Name) _____

California law requires, with limited exceptions, that a real estate broker or salesperson (collectively, "Agent") conduct a reasonably competent and diligent **visual** inspection of reasonably and normally accessible areas of certain properties offered for sale and then disclose to the prospective purchaser material facts affecting the value or desirability of that property that the inspection reveals. The duty applies regardless of whom that Agent represents. The duty applies to residential real properties containing one-to-four dwelling units, and manufactured homes (mobilehomes). The duty applies to a stand-alone detached dwelling (whether or not located in a subdivision or a planned development) or to an attached dwelling such as a condominium. The duty also applies to a lease with an option to purchase, a ground lease or a real property sales contract of one of those properties.

California law does not require the Agent to inspect the following:

- Areas that are not reasonably and normally accessible
- Areas off site of the property
- Public records or permits
- Common areas of planned developments, condominiums, stock cooperatives and the like.

Agent Inspection Limitations: Because the Agent's duty is limited to conducting a reasonably competent and diligent visual inspection of reasonably and normally accessible areas of only the Property being offered for sale, there are several things that the Agent will not do. What follows is a non-exclusive list of examples of limitations on the scope of the Agent's duty.

Roof and Attic: Agent will not climb onto a roof or into an attic.

Interior: Agent will not move or look under or behind furniture, pictures, wall hangings or floor coverings. Agent will not look up chimneys or into cabinets, or open locked doors.

Exterior: Agent will not inspect beneath a house or other structure on the Property, climb up or down a hillside, move or look behind plants, bushes, shrubbery and other vegetation or fences, walls or other barriers.

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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



AVID - Page 2

- ❑ 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

Property Address: _____ Date: _____

If this Property is a duplex, triplex, or fourplex, this AVID is for unit # _____.

Inspection Performed By (Real Estate Broker Firm Name) _____

Inspection Date/Time: _____ Weather conditions: _____

Other persons present: _____

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

Entry (excluding common areas): _____

Living Room: _____

Dining Room: _____

Kitchen: _____

Other Room: _____

Hall/Stairs (excluding common areas): _____

Bedroom # _____: _____

Bedroom # _____: _____

Bedroom # _____: _____

Bath# _____: _____

Bath# _____: _____

Bath# _____: _____

Other Room: _____

Buyer's Initials (_____) (_____)


Seller's Initials (_____) (_____)

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AVID REVISED 11/13 (PAGE 2 OF 3)

Reviewed by _____ Date _____

AGENT VISUAL INSPECTION DISCLOSURE (AVID PAGE 2 OF 3)

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Other Observed or Known Conditions

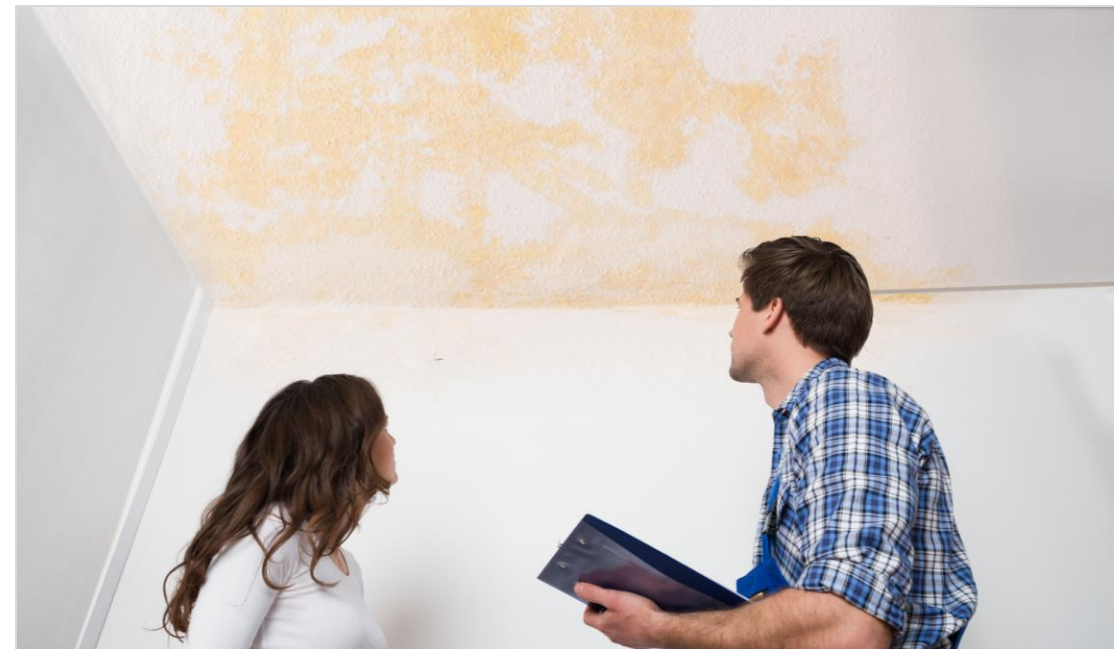
- ☐ Agent has a duty to reveal any known material fact or defect
- ☐ Consider non-visual issues
 - odors
 - ✦ near manufacturing facility or animal farm, for example
 - sounds
 - ✦ near airport or air base, for example
- ☐ Duty to inspect includes accessible and visible exterior
 - walls, but not necessarily roof





Example: Disclosures 1 + 2

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

 YES	Greenish/black discoloration in kitchen sink.	Stain on living room ceiling near dining area.
 NO	Mold of the XYZ variety in kitchen.	Water stain in living room caused by leaky upper level window or bathtub.



Example: Disclosures 3 + 4

 YES	Uneven floor near entrance to bedroom.	Crack in second bedroom near baseboard.
 NO	15-degree sloped floor indicative of shifting slab.	Large (or small) structural (or cosmetic) crack caused by earthquake (or bad paint job).



Risk Management Tip

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](#)



ADDITIONAL RESOURCES