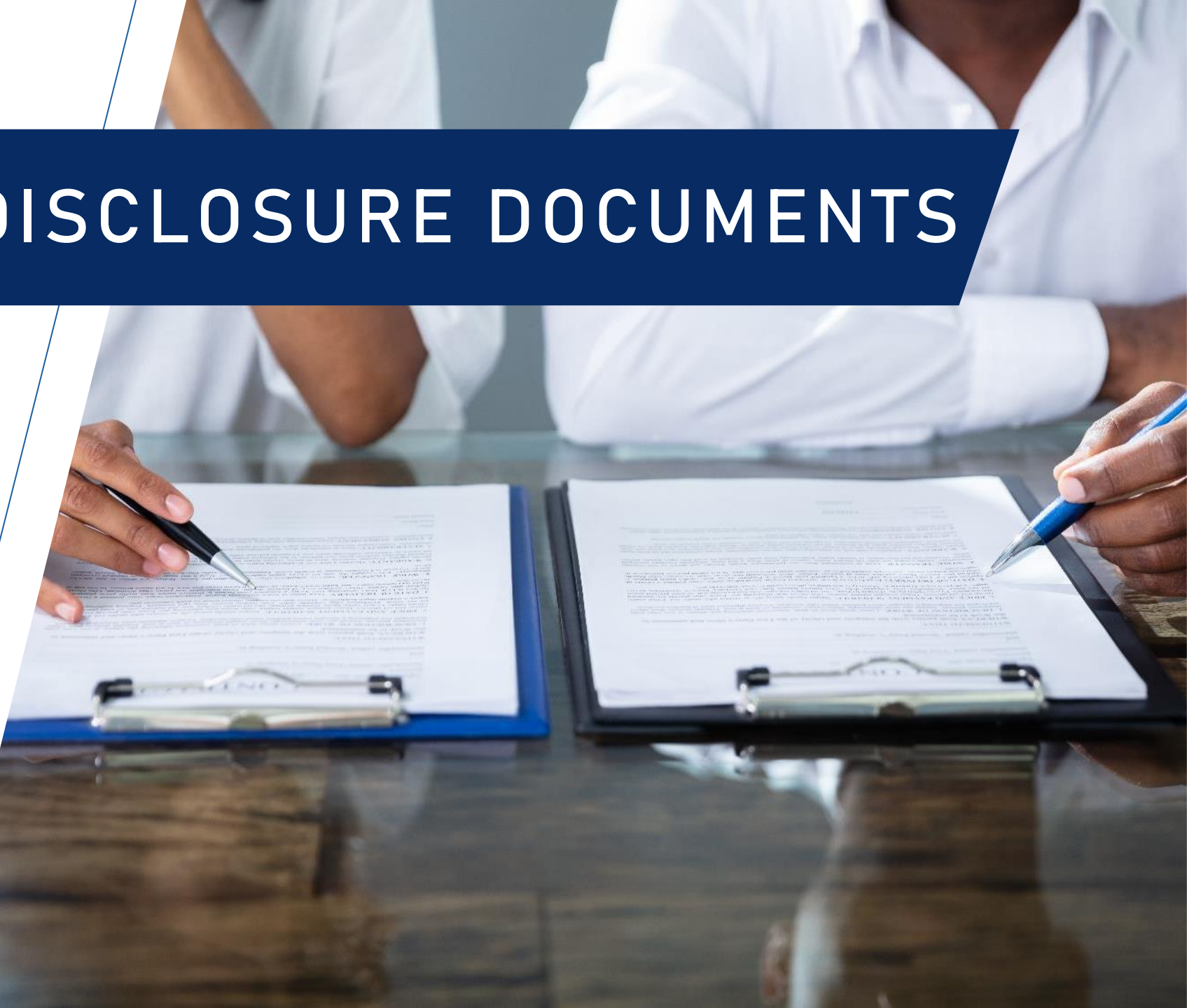


# UPDATING DISCLOSURE DOCUMENTS



C.A.R.  
LEGAL  
TOOLS



# DUTY TO DISCLOSE

With limited exceptions, the seller of residential property improved with one to four units has a legal obligation to disclose to a buyer known material information affecting the value or desirability of the property by completing a statutory form called the Real Estate Transfer Disclosure Statement (C.A.R. Form TDS) and a contractual obligation to also complete a Seller Property Questionnaire (C.A.R. Form SPQ) as soon as practical before transfer of title.

# DUTY TO DISCLOSE

It is also common for seller or their agent to order a natural hazards (NHD) report from a third-party company that identifies if the property is located in certain “zones.” The seller can use the NHD report to make other disclosures, such as those addressing fire hardening of the property and defensible space around it. See C.A.R.’s Fire Hardening and Defensible Space Disclosure and Addendum (C.A.R. Form FHDS).

# DUTY TO MODIFY A DISCLOSURE

A seller is contractually obligated to amend a previously delivered TDS, SPQ or other disclosure if seller becomes aware of adverse conditions not previously disclosed or any material inaccuracy in such disclosures.

- (4) In the event Seller or Seller's Agent, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer under this paragraph, Seller shall, in writing, promptly provide a subsequent or amended TDS, Seller Property Questionnaire or other document, in writing, covering those items. Any such document shall be deemed an amendment to the TDS or SPQ.

# BUYER RIGHT TO RESCIND

If these disclosures, or any amendment thereto, are made after a buyer has made an offer, then the buyer has a right to rescind the offer within a few days after receiving the disclosure.

## G. TERMINATION RIGHTS:

- (1) **Statutory and Other Disclosures:** If any disclosure specified in **paragraphs 11A, B, C, or D**, or subsequent or amended disclosure to those just specified, is Delivered to Buyer after the offer is Signed, Buyer shall have the right to terminate this Agreement within **3 Days** after Delivery in person, or **5 Days** after Delivery by deposit in the mail, or by an electronic record or email satisfying the Uniform Electronic Transactions Act (UETA), by giving written notice of rescission to Seller or Seller's Authorized Agent. If Buyer does not rescind within this time period, Buyer has been deemed to have approved the disclosure and shall not have the right to cancel.

# DELAYS BETWEEN LISTING AND SELLING

## SELLER DISCLOSURES

It is common for a seller to complete the TDS and SPQ shortly after signing a listing agreement. The longer it takes to get the property into contract, the greater the possibility that there is a change in something that was disclosed at the time of the listing, or that the seller becomes aware of something that should be disclosed but wasn't when the disclosure was originally provided. Listing agents should advise their seller clients to review all disclosures to make sure that all answers are still accurate, and if not to make a modification as soon as possible.



UPDATING DISCLOSURE DOCUMENTS



# THIRD PARTY REPORTS

If a NHD report was ordered at time of listing, then the listing agent should contact the rep for the NHD reporting company to confirm that it is still accurate or if an updated report needs to be prepared. If the latter, the seller's disclosures may need to be modified if the NHD report changes.

Q Allocation of Costs			
Paragraph #	Item Description	Who Pays (if Both is checked, cost to be split equally unless Otherwise Agreed)	Additional Terms
Q(1)	10A, 11A	Natural Hazard Zone Disclosure Report, including tax information	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____ <input type="checkbox"/> Environmental _____ <input type="checkbox"/> Other _____
		<input type="checkbox"/> Provided by _____	
Q(2)	_____ Report	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller	*MyNHD **Best Value**
Q(3)	_____ Report	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller	*SnapNHD - The Industry Leader*
Q(4)	10B(1)	Smoke alarms, CO detectors, water heater bracing	American Home Shield NHD/AHS
Q(5)	10A 10B(2)	Government Required Point of Sale inspections, reports	Disclosure Source
Q(6)	10B(2)	Government Required Point of Sale corrective/remedial actions	First American NHD
			JCP-LGS Disclosures
			"Property ID MAX"

# HOW TO MODIFY A PREVIOUS DISCLOSURE

- While a completely new disclosure can be prepared and signed by the seller, that will not be necessary in most circumstances. Instead, the seller can identify the modification by attaching an Addendum (C.A.R. Form ADM) to the TDS, SPQ or other disclosure.
- Make sure to check the box at the top of the page making the Addendum part of the TDS or checking “Other” and writing in the other document, such as SPQ. In the blank lines, identify the disclosure that needs to be changed by form name and paragraph number and make the modification in a clear and concise manner.



**ADDENDUM No.** \_\_\_\_\_  
(C.A.R. Form ADM, Revised 12/21)

The following terms and conditions are hereby incorporated in and made a part of the Purchase Agreement, OR  Residential Lease or Month-to-Month Rental Agreement,  Transfer Disclosure Statement (Note: An amendment to the TDS may give the Buyer a right to rescind),  Other \_\_\_\_\_, dated \_\_\_\_\_, on property known as \_\_\_\_\_



# EFFECT OF ADDENDUM OR AMENDMENT TO PREVIOUS DISCLOSURE.

- If the previously prepared disclosure has not already been provided to the buyer, then the Addendum should be attached to it and provided to the buyer at the same time.
- Any rescission right associated with the TDS or other disclosure should not be affected.
- If the previously prepared disclosure has already been delivered to the buyer, the Addendum will act as an amendment to the disclosure and a new rescission right for the buyer will apply.

# ADDITIONAL RESOURCES

- Quick Guide – [Updating Disclosure Documents](#)
- Q&A – [Transfer Disclosure Statement Law](#)
- Q&A – [Seller Property Questionnaire: Summary of C.A.R. Form SPQ](#)
- [Sales Disclosure Checklist](#)
- [Summary Disclosure Chart](#)