



Courtside *Newsletter*

C.A.R. November 2013 Forms Release

BY: JOHN V. GIARDINELLI, ATTORNEY AT LAW
CASEY MCINTOSH, PARALEGAL



On November 29, 2013 the California Association of REALTORS® released seven new forms and 23 revised forms. The forms are available through ZipForms.

I. New forms

Buyer Vacant Land Additional Disclosure (BVLIA): The BVLIA advises buyers regarding inspections and issues related to the purchase of vacant land. This form outlines the necessity of property investigations, especially those that are of particular importance when purchasing vacant land. Among those are investigations of the financing, construction costs, availability of utilities, an environmental survey, natural hazards reports, and future subdivision possibilities. The form further recommends that a purchaser of vacant land seek qualified professional and legal counsel should he or she have any concerns.

Corporation/Limited Liability Company Signature Addendum (CLLC): The CLLC was introduced as an addendum to the Residential Purchase Agreement (RPA) and is designed for proper signing of documents by corporations and limited liability companies. The form provides that the signature or initials of the authorized officers or managing members shall be deemed as the signature or initials of the corporation or limited liability company. It also provides a space to indicate whether the form is for a counter-offer. (Title companies, banks, and escrow usually also require copies of minutes or resolutions from the Board of Directors authorizing the signatories.)

Delivery of or Failure to Deliver Short Sale Lender Written Consent (DSSC): The DSSC provides means for both the buyer and the seller to document the delivery or non-delivery of short sale lenders' written consent and resulting actions on the part of buyer and/or seller.

Notice to Quit (NTC): Rather than the standard Notice to Pay Rent or Quit, the NTC allows a landlord to give notice to vacate to tenants for certain non-curable defaults. Pursuant to the notice, tenants have no less than three (3) days to quit the premises and they are notified that a negative credit report on their credit record may be reported should they fail to fulfill the terms of

their rental/credit obligations. The landlord declares a forfeiture of the lease based on one or more of several options, all of which constitute an incurable breach of the lease: violation of the lease covenant against subletting, assignment or committing waste; maintaining a nuisance; and/or using the premises for an unlawful purpose.

Pet Addendum (PA): The PA is an addendum to the Residential Lease or Month-to-Month Rental Agreement that clarifies the terms and conditions regarding landlord's allowing a pet. Included amongst the terms are:

1. No other pets are allowed on the premises besides those designated in the addendum.
2. Tenant ensures that the pets referenced in the addendum are housebroken, and have no vicious tendencies or histories of threatening or causing harm to persons by biting, scratching, chewing or otherwise.
3. Tenant further insures that pets will be properly licensed and vaccinated and that proof will be available upon landlord or agent's request.
4. Tenant accepts responsibility for compliance with all local laws and regulations relating to the pets.
5. Tenant agrees to clean up after his or her pets and to properly dispose of waste.
6. Tenant will also keep the premises free from pet odor and stain.
7. Tenant will take action to avoid infestations, such as fleas, in the premises.
8. If the premises are part of a residential complex, such as an apartment complex, pets are not allowed in pool areas, clubhouses, the business office, laundry rooms, business center, or fitness centers. Pets are also not to be bathed in laundry room sinks, pools, or the pool area.
9. The landlord may revoke the right to have pets at any time with three day's notice, if there is cause, or thirty days notice, without cause. Failure to remove the pets after permission has been revoked will be considered a breach of the rental or lease agreement.
10. Tenant will be held responsible for any damage to the premises caused by his or her pets, whether or not those pets are expressly designated.

Both landlord and tenant sign the PA, indicating that they understand and abide by the terms listed therein. Please note that there are separate rules and Fair Housing issues for service or assistance animals.

Pool, Hot Tub, and Spa Addendum (PHSA): The PHSA is an addendum to the Residential Lease or Month-to-Month Rental Agreement. It documents the fact that pools, hot tubs, and spas are potentially dangerous, and it outlines some safe practices that should be utilized. The form also serves as an indemnity agreement between the landlord and tenants, by which the tenant agrees to "release, indemnify, hold harmless, and forever discharge Landlord and Landlord's employees, agents, successors and assigns from any and all claims, liabilities, or causes of action of any kind that Tenant, members of Tenant's household or Tenant's guests or invitees may have at any time against Landlord or Landlord's agents resulting from Tenant's use of the pool, hot tub or spa."

Seller Multiple Counter Offer (SMCO): The SMCO is similar to the newly revised Seller Counter Offer (SCO) form, but is for use when a seller is making multiple counter offers. With these forms, C.A.R. has separated multiple counter offer situations from single counter offer situations.

II. Revised forms

It is okay to use prior revisions of the following forms, unless otherwise indicated.

Authorization to Receive and Convey Information (ARC): C.A.R. added a section to the ARC for a Broker or Broker's salespersons, broker-associates, employees and assistants to receive information regarding Buyer or Seller's Comprehensive Loss Underwriting Exchange (C.L.U.E.) Report when seeking information in connection with the sale or purchase of a property.

Agent Visual Inspection Disclosure (AVID): The AVID has been amended to specify and allow use when there is more than one unit on the subject property, such as a duplex, triplex, or condominium. Separate AVID forms are required for each unit. The revised form specifies which unit the AVID form is being used for.

Continued...

Calendar

RPA

Date: January 21, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

C.A.R. Expo

Date: January 22-25, 2014
 Location: San Diego Grand Hyatt Hotel
 Go to www.car.org for more information and registration!

Managing Risk in Today's Litigation Environment

Date: January 31, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Southwest Riverside County Association of REALTORS®

Contact SRCAR to sign up!

Property Management

Date: February 5, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

Brown Bag

Date: February 20, 2014
 Time: 11:30 a.m. – 1:00 p.m.
 Location: Southwest Riverside County Association of REALTORS®

Contact SRCAR to sign up!

RPA

Date: March 11, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

Managing Risk in Today's Litigation Environment

Date: April 8, 2014
 Time: 9:00 a.m. – 1:00 p.m.
 Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

Important Dates

December 10: Human Rights Day
 December 21: Winter Solstice
 December 24: Christmas Eve
 December 25: Christmas Day

II. Revised forms continued...

Buyer's Inspection Elections (BIE): The BIE has added elections for inspections relating to vacant land. Among those are investigations regarding financing, construction costs, availability of utilities, environmental surveys, natural hazards reports, and future subdivision possibilities.

Counter Offer (CO): The CO has been revised for use only when making a single counter offer. Language regarding multiple counter offers has been removed. (See above.)

Contingency Removal (CR): The CR has been modified so that it is clearer that the form can be used for removing either buyer or seller contingencies.

Homeowner Information Request (HOA): This form has been modified to reflect the revisions of the Davis Sterling Act in the California Civil Code. It is only okay to use prior revisions until December 31, 2013, when the law changes.

Independent Contractor Agreement (ICA): Changes have been made to the activities that are permitted.

Lease Listing Agreement (Exclusive Authorization to Lease or Rent) (LL): The LL was revised to clarify commission when there are excluded parties.

Application to Rent/Screening Fee (LRA): The LRA was revised to give specific permission for the landlord to obtain reports for all representations made in the application, not just credit reports.

Notice of Entry (NOE): The method of service section of the NOE has been modified to exclude "Post and Mail." "Left at Entry" is now an option under the "Personal Delivery" section, indicating that the Notice was left on, near or under, the usual entry door of the premises. There is also now a subsection for "Mail Delivery" (a change in formatting).

Notice of Sale and Entry (NSE): The NSE was changed to reflect a recent California Court decision regarding "normal business hours" (*Dromy v. Lakovsky*, see our October *Courtside Newsletter* for more details). The language indicating that "normal business hours" are "generally 8 AM to 5 PM, Monday through Friday" has been taken off the form. No hours have been listed as "normal business hours." It is now up to reasonable negotiation.

Property Management Agreement (PMA): The section regarding delivery of owner accounting statements has been revised.

Receipt for Increased Deposit/Liquidated Damages (RID): The language of the RID has been modified to automatically include a liquidated damages clause, unless an opt-out is checked.

The following forms were modified to clarify commission and duties when there are excluded parties:

Probate Listing Agreement (PL)
 Residential Listing Agreement—Exclusive (RLA)
 Residential Listing Agreement—Agency (RLAN)
 Residential Listing Agreement—"Open" (RLAN)

Residential Lease After Sale (Seller in Possession After Close of Escrow) (RLAS): The RLAS has been modified to clarify that day one of the lease begins on the day after the close of escrow date.

Request for Repairs (RR): This form has been modified to clarify the seller response.

Seller's Advisory (SA): The SA has a minor revision. A date line has been added next to the broker signature.

Statewide Buyer and Seller Advisory (SBSA): Language has been added to the SBSA regarding warnings about Tsunami and internet advertising.

Seller Financing Addendum and Disclosure (SFA): A disclosure has been added to explain use of the form in light of the recodification of the Davis Sterling Act in the Civil Code, as well as new seller financing disclosure requirements.

Seller Property Questionnaire (SPQ): A section has been added to the SPQ regarding a seller's awareness of smoking on or in the property.

There are quite a few updates and revisions to take into account during this round of revisions. Many of the revisions and new forms seem to be in response to the current market trends, as well as an effort to circumvent certain market forecasts. What is great is that they add clarification to a lot of frequently asked questions. However, as always, should you have any further questions about the use of any form, it is always best to seek qualified legal counsel for an answer before utilizing the form.

The Giardinelli Law Group, APC
 would like to wish you and yours a
 happy, safe, and wonderful holiday
 season filled with love and
 laughter.

This Newsletter is a copyrighted publication and may not be reproduced or transmitted in any form or by any means without written permission. This article does not necessarily reflect the point of view of The Giardinelli Law Group, APC, or other person or entity who publishes it. This article provides legal information abridged from statutes, court decisions, and administrative rulings and contains opinions of the writers. Legal information is not the same as legal advice, which is the application of law to an individual's specific circumstances. Although every effort is made to ensure the information is accurate and useful, it is recommended that you consult with a lawyer to obtain professional assurance that the information provided and your interpretation of it is appropriate for a particular situation. To request further information or to comment on this newsletter, contact us at (951) 244-1856 and visit our website at www.glawgroupapc.com.