



Courtside *Newsletter*

California Association of REALTORS® Releases New & Revised Forms; Discontinues One

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



On April 28, 2014, the California Association of REALTORS® will be releasing one (1) new and five (5) revised forms for California REALTORS® to use. One (1) form is being discontinued as a result of the recent revisions. This month's *Courtside Newsletter* will offer a brief overview of these forms.

New Forms

Representative Capacity Signature Addendum (RSCA): This new form serves as an addendum to the Residential Purchase Agreement. It combines separate signature addenda for probate representatives, trust administrators or trustees, powers of attorney, and corporate or LLC entities. This is an important new form and should be used by Sellers and Buyers who are signing documents on behalf of any of these entities.

Revised Forms

Additional Agent Acknowledgement (AAA): The Additional Agent Acknowledgement form has been revised to include space for additional licensees working with the buyer or seller on that particular transaction. There has also been an area added to list the names of all agents working with the buyer or seller, as well as the Team Name, if applicable.

Additional Broker Acknowledgment (ABA): The ABA has been revised to include Section 2, which will allow users

to acknowledge multiple licensees. Section 2 states, "Activity under the license of Broker 1 and/or Broker 2 will be conducted by multiple associate licensees, partners or teams as indicated on the attached Additional Agent Acknowledgement forms (C.A.R. Form AAA)."

Declaration Regarding Real Estate License and Tax Reporting (DLT): The DLT has been modified so that a separate W-9 tax reporting form will not be necessary if Section 2 is filled out. The new Section 2 now contains information regarding whether the cooperating broker is a sole proprietor, partnership or corporation. It also contains space for the corporation's name, should it be different than that of the cooperating broker. Section 2 now requests the cooperating broker's Taxpayer Identification Number ("TIN"), either in the form of the broker's social security number or employer identification number. Lastly, by signing the form, the cooperating broker certifies that:

1. The TIN shown on the form is the cooperating broker's correct tax identification number.
2. The cooperating broker is not subject to backup withholding due to the failure to report interest and dividend income.
3. The cooperating broker is a U.S. citizen or other U.S. person, as defined in the Form W-9 instructions.
4. The cooperating broker is exempt from Foreign Account Tax

Compliance Act (FATCA) withholding.

This form will only be available either via zipForm6 or from the following associations: Beverly Hills/Greater Los Angeles Association of REALTORS®, California Desert Association of REALTORS®, Newport Beach Association of REALTORS®, Pismo Coast Association of REALTORS®, and Sacramento Association of REALTORS®.

Notice of NonResponsibility (NNR):

The NNR has been modified in order to comply with recent changes in the California Civil Code. Section 5 has been expanded for the non-responsible party ("NRP") to specify whether the contractor and/or construction lender's name and address is known at the time the form is executed. A verification has also been added, stating, "I, NRP, have read the Notice of NonResponsibility and have personal knowledge of all facts stated herein and such facts are true. I certify under penalty of perjury that the foregoing is true and correct."

This form is to be used in the event that the "owner of real property or a person claiming an interest in real property on which a work of improvement is situated that did not contract for the work of improvement." (Civil Code Section 8444) The nonresponsible party must post the notice in a conspicuous place on the property and record it with the County Recorder's office within 10 days of

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Calendar

C.A.R. Expo

Date: April 30-May 3, 2014
Location: Sacramento Convention Center

Go to www.car.org for more information and registration!

Broker Supervision

Date: May 8, 2014
Time: 9:00 a.m. – 12:00 p.m.
Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

RPA

Date: June 24, 2014
Time: 9:00 a.m. – 1:00 p.m.
Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

Brown Bag

Date: June 27, 2014
Time: 11:30 a.m. – 1:00 p.m.
Location: Southwest Riverside County Association of REALTORS®

Contact SRCAR to sign up!

RPA

Date: July 9, 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: July 16, 2014
Time: 9:00 a.m. – 1:00 p.m.
Location: Tri-Counties Association of REALTORS®

Contact Tri-Counties to sign up!

Changes to the RPA

Date: August 8, 2014
Time: 10:00 a.m. – 11:30 a.m.
1:00 p.m. – 2:30 p.m.
Location: Pacific West Association of REALTORS®

Contact PWR to sign up!

having knowledge that the work of improvement has begun. Such a notice may help shield a property owner, such as a landlord, from liability in the event that the responsible party reneges on his or her obligations to the contractor or construction lender.

Real Estate Transfer Disclosure Statement (TDS): Section C, question 16 of the TDS has been revised to comply with a new law that comes into effect on July 1, 2014. According to C.A.R.'s Q&A on the topic, "The previous question only asked about *lawsuits* by or against the seller threatening to or affecting the real property, including *lawsuits* alleging a defect or deficiency in the common areas. The revised question retains all of the language of the previous question about lawsuits including defects or deficiencies in common areas, but adds new questions concerning *claims*. Thus, if the seller has made certain types of *claims* these must be disclosed even though there may not be a *lawsuit* filed."

The new C. 16 references four specific claims:

1. Claims of damages by engaging in any pre-litigation procedures, as defined in Civil Code Section 910.
2. Claims of damages by engaging in any non-adversarial procedures, as defined by Civil Code Section 914.
3. Claims against the builder for breach of warranty under Civil Code Section 900. CC 900 outlines certain "fit and finish" items that a builder must provide a minimum 1-year express written limited warranty for. Included amongst these items are cabinets, mirrors, flooring, interior and exterior walls, countertops, paint finishes, and trim.
4. Claims against the builder for breach of any enhanced protection agreements pursuant to Civil Code section 903.

Agents and brokers cannot use prior revisions of this form after the new statute goes into effect on July 1, 2014.

Discontinued Forms:

Additional Broker Agent Acknowledgement (ABAA): As a result of the new, separate Additional Agent Acknowledgement and Additional Broker Acknowledgement, the ABAA has been discontinued. REALTORS® may no longer use this form.

Many of the revisions and new forms are in response to current market trends. 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.

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John V. Giardinelli is the principal at The Giardinelli Law Group, APC as well as the founding attorney and senior member of the firm's predecessor companies. Admitted to the California State Bar in 1977, Mr. Giardinelli honed his skills on transactions and litigation in real estate, business, and employment law. Currently, his practice is focused on real estate and business law. He represents several Associations of REALTORS® with a cumulative membership exceeding 30,000 REALTORS®, as well as individual brokers and agents.

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