



Courtside *Newsletter*

C.A.R. Forms Part Two:

Revised Forms to be Released in November

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During the week of **November 24, 2014**, the California Association of REALTORS® has slated 13 new and 27 revised forms for release.

In last month's *Courtside Newsletter*, we covered the new forms that are going to be released, many of which are necessary and support the changes to the revised Residential Purchase Agreement (RPA). This month, we will cover the revised forms. Unless otherwise stated, C.A.R. has indicated that it is okay to use prior versions of the forms.

Due to the extensive changes made to the Residential Purchase Agreement, we will be drafting a *Courtside Newsflash* devoted to covering the changes to the RPA, and other purchase agreements, including the Residential Income Property Purchase Agreement and Joint Escrow Instructions (RIPA), Business Purchase Agreement (BPA), Commercial Property Purchase Agreement (CPA), Manufactured Home Purchase Agreement (MHPA), New Construction Residential Purchase Agreement (NCPA), Notice of Default Purchase Agreement (NODPA), Probate Purchase Agreement and Joint Escrow Instructions (PPA), and Vacant Land Purchase Agreement and Joint Escrow Instructions (VLPA).

Revised Forms

Additional Agent Acknowledgement (AAA):

This addendum to the Residential Purchase Agreement (RPA) has been revised to allow for up to five (5) additional agents to be listed as part of a real estate transaction. This form should be used by the agent members of any Team or Group. The form acknowledges that the agents have entered into a "separate written agreement to share responsibility and compensation for certain real estate licensed activity" and have informed the broker they are working under of the same. There are spaces on the form for the broker to sign his or her acknowledgement of the business arrangement.

Additional Broker Acknowledgement (ABA):

The Additional Broker Acknowledgement can be used to disclose that more than one Broker will be representing a buyer/tenant or seller/landlord in the transaction. The form has been revised to include two additional lines for the real estate brokers to sign, in addition to the buyer/tenant and seller/landlord.

Buyer's Inspection Advisory (BIA):

The Buyer's Inspection Advisory has been reduced from two pages to one. The "Buyer Rights and Duties" "Seller Rights and Duties" and "Broker

Obligations" sections from the previous BIA have been removed and placed on the revised RPA. However, "Brokers Obligations and Duties" continues to state, "Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance."

Back-Up Offer Addendum (BUO):

The BUO has been revised in paragraph 2, "Buyer's Deposit," to include language stating the deposit "shall not be delivered to Escrow Holder until 3 business days after copies of the written cancellations Signed by all parties to the Prior Contracts are provided to Buyer..." There are no other substantive changes to the form.

Cancellation of Contract Release of Deposit and Cancellation of Escrow (CC):

The Cancellation of Contract, Release of Deposit and Cancellation of Escrow form has been revised so the reasons for cancellation that are the most common appear first in paragraph 1. Additional language has been added to paragraph 2 to state more clearly that it is the "Release of Deposit and Cancellation of Escrow." A line for the escrow number and escrow company has also been added. You should not use a prior version of this form.

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Contract Paragraph Matrix (CPM):

With the revisions to the RPA and other purchase agreements, C.A.R. needed to also revise the Contract Paragraph Matrix. It has been updated to reflect where the corresponding paragraphs for certain topics, specifically contingencies and contract actions, are located on various purchase agreements. For obvious reasons, it is not okay to use prior versions of this form.

Contingency Removal (CR):

C.A.R. Form CR has been revised to reflect changes to the RPA. Specifically, section I(1)(A)(8) has been added removing the contingency for the “review of documentation for leased or liened items (Paragraph 8B(4).” The layout of the form has also been revised in order to provide clarification. There were no further substantive changes to the language. It is not okay to use prior versions of this form.

Demand for Mediation (DM):

The DM has been updated to reflect default language regarding mediation, which can now be found in paragraph 22A of the RPA.

Electronic Signature Verification for Third Parties (ESV):

This form is to be hand-signed, to verify that the party is to be signing documents electronically.

Homeowner Association Information Request (HOA1):

HOA1 has been revised to demand from a homeowner association, pursuant to California Civil Code §§ 4525 and 4530, documents required by the purchase agreement. The form also references C.A.R. Forms HOA2 and HOA3, which provide estimates to the homeowner for how much the obtaining the documents will cost. It is not okay to use prior versions of this form.

Lease/Rental Commission Agreement (LCA):

The LCA has been revised to indicate whether the tenant versus the landlord has agreed to pay a commission to the broker. The signature lines have also been reformatted for clarity.

Notice to Buyer to Perform (NBP):

As a result of the complete overhaul of the Residential Purchase Agreement (RPA), the NBP has been revised to update the RPA paragraphs cited on the form. It is not okay to use any prior versions of this form.

Notice to Seller to Perform (NSP):

Much like the Notice to Buyer to Perform (NBP), the NSP also needed to be revised to reflect the paragraphs in the newly updated RPA. The NSP has also clarified a previously existing paragraph on the form, which now states:

“SELLER: If you do not take the contractual actions specified above within 2 (or _____) Days After Delivery (but no less than the time specified in the Agreement) of this Notice to Seller to Perform, Buyer may cancel the Agreement.”

It is not okay to use any prior versions of this form.

Representative Capacity Signature Addendum (RCSA):

The RCSA has been reformatted and given clearly delineated subparagraph headings. Paragraph 3 has also been added, which states:

“The Party acting in a representative capacity: (i) represents that the entity for which that party is acting already exists, and (ii) shall Deliver to the other Party and Escrow Holder, within 3 Days After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable trust document, or portion thereof, letter testamentary, court

order, power of attorney, or formation documents of the business entity).”

Request for Repair (RR):

The Seller Response and Buyer Reply have been removed from the Request for Repair to the new Request for Repair Response (RRRR) form. Paragraph 1(B) has also been added, which includes optional language regarding work specified in Sections 1 and 2 of any Pest Control Report. Further, a line has been added in which the Buyer requests that the Seller lower the purchase price to a specific number.

Trust Advisory (TA):

The TA has been updated to include language regarding smoke detector compliance.

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Should an agent or broker have any questions about the new or revised forms, he or she should seek qualified legal counsel or contact their local REALTOR® association for answers. As was aforementioned, we will be sending a special *Courtside Newsflash* to cover the changes made to the Residential Purchase Agreement. These changes will have a huge impact on how many REALTORS® conduct their real estate transactions. Look for the *Newsflash* in December!

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