

EAST BAY DISCLOSURES AND DISCLAIMERS ADVISORY*

** A Service of the Berkeley and Oakland Associations of REALTORS
(This form is intended for use with the California Association of REALTORS®
form SBSA, "Statewide Buyer and Seller Advisory")*

This Advisory is intended for use in the following cities and surrounding unincorporated areas: Alameda County - Alameda, Albany, Berkeley, Emeryville, Kensington, Oakland, Piedmont. Contra Costa County - El Cerrito, El Sobrante, Hercules, Richmond, San Pablo. Please also review the separate Contra Costa County or city specific Ordinances and Regulations for property in the area you are either selling or buying.

This Advisory consists of several disclosures and disclaimers regarding the purchase of real property located in the above portions of the East Bay. It is not intended to be a comprehensive guide to buying real estate nor is it designed to alarm you. It does not limit any legal duty of real estate brokers; however it does point out some limitations on real estate brokers' ability to provide assistance to you. This Advisory is intended to educate and inform you that in purchasing something as important and valuable as real estate, you have a legal responsibility to protect yourself by taking special precautions to investigate the issues detailed in this Advisory and any other issues which impact the use, value or desirability of the Property. Consult with the appropriate experts and/or governmental agencies. Do not just rely on real estate brokers or Sellers as sources for all information. When you have questions, doubts or concerns conduct your own investigation. For more information about Alameda County, buyers can go on line at <http://www.acgov.org>. For more information about Contra Costa County, buyers can go on line at <http://www.co.contra-costa.ca.us/>.

This Advisory was created as of August, 2011 and the information in this Advisory may change over time and/or new issues may develop due to actions taken at the federal, state, county, city and/or private, local level. Some of the issues that are covered in this Advisory are point of sale or retro-fit requirements that may also get triggered by remodeling efforts or efficiency requirements. Sellers and Buyers should investigate the applicability of these requirements to the past, present and future sale, purchase, ownership and/or development of the Property.

- Sellers must understand the importance and significance of their disclosure obligations. Sellers need to take the time to carefully and fully complete all aspects of the disclosure documents. Sellers must disclose anything that is known to the Sellers that materially affects value or desirability of the Property. Sellers who need help in completing their disclosure obligations should consult with their own attorney; Brokers cannot determine the legal sufficiency of any disclosure.
- Sellers and Buyers should read this Advisory in conjunction with a careful review of all disclosures required by Sellers and by the real estate Brokers involved in the transaction including, without limitation, the Transfer Disclosure Statement and the Supplemental Property Questionnaire, if provided by Seller.
- Buyers are responsible for conducting their own investigations into the issues discussed in this Advisory as well as those issues that are not referenced below to the extent that those additional issues may affect the Buyers' determination of the value or desirability of the Property. That investigation should take place prior to the Buyer's removal or waiver of any inspection contingency. Buyers are urged to:
 - Carefully read the information contained in any advisories, disclosures, inspections, and/or reports that Buyers receive from any source.
 - Conduct additional/further investigations and inspections regarding any issues that concern Buyers which are raised in those advisories, disclosures, inspections, and/or reports received by Buyers from any source.
 - Thoroughly and thoughtfully inspect and evaluate the Property and, in so doing, meet Buyers' obligation to protect themselves, including those facts which are known to or within the diligent attention and observation of the Buyers.

- Buyers need to inquire into other or additional matters (beyond those contained in this Advisory) to the extent that those additional issues affect the Buyers' determination of the value or desirability of the Property
- Buyers must bear in mind that a Property may suffer defects and deficiencies which neither Sellers nor Brokers are aware. Buyers should also recognize that not all issues can be objectively determined and some issues can have varying impacts on different people since some people may be more sensitive than others.
- Buyers are urged to engage licensed professionals to evaluate all aspects of the Property and to consult all appropriate governmental agencies. Buyers' right to conduct certain types of investigations may be limited by the Purchase Contract.
- Any representations about the issues in this Advisory made by third parties have not been verified by Brokers and need to be independently confirmed by Buyers.
- **Although licensed to list, sell and lease real estate, Brokers may not have expertise on the issues in this Advisory.**

This Advisory is not meant to be a complete source of information on all matters which can become issues in real property purchase and sale contracts. **Given Buyer's legal duty to exercise reasonable care to protect himself or herself regarding facts that are known to or within the diligent attention or observation of a buyer, Buyer is urged to investigate, without limitation, the items in the following paragraphs of this Advisory as well as the condition of the foundation, roof, plumbing, heating, air conditioning, electrical, mechanical, energy efficiency, security, appliances/personal property, pool/spa, and all other systems and components.**

The Berkeley and Oakland Associations of REALTORS® do not warrant or guarantee the accuracy of the information contained in this Advisory or the adequacy of the information contained herein as it relates to a specific real property transaction.

A. MARKET CONDITIONS ADVISORY

1. GENERAL CONDITIONS

Real estate markets are cyclical. It is impossible to predict what the market conditions will be at any given time. The ultimate decision of what amount to offer on any given property rests with the buyer. Buyers need to decide what they are willing to pay for a property in light of market conditions and their own financial resources. Buyers also must decide what type of offer they are willing to make in recognition of market conditions existing at the time of their offer. Purchase price is not a simple calculation based upon square footage but an agreement as to what the Buyer will pay and what the Seller will accept.

Real estate brokers traditionally recommend that Buyers protect themselves by conditioning their purchase of the Property on an inspection of the Property so that the Buyers can be assured that the Property meets their needs. In some markets, many Buyers are choosing to forego that sage advice so that their offer is more attractive to the Seller. If, after making an offer without a property condition contingency, a Buyer becomes aware of an aspect of the condition of the Property that affects its value or desirability, the Buyer may still be required to proceed to purchase the Property or possibly pay damages to the Seller, which may be the deposit in escrow. If this is a condition that must subsequently be repaired, the Buyer may have no legal recourse against any of the parties in the transaction after escrow closes including the Seller, the brokers or the inspectors, and then the Buyer may have to pay to correct those problems.

Waiving the right to have a contingency regarding the property condition does not waive the Buyer's right to inspect the Property, even if the Property is being sold "AS IS". Regardless of whether there is a property condition contingency, Broker recommends that prospective Buyers have the Property thoroughly inspected by their own experts prior to the close of escrow.

The lender's approval of financing includes the lender's determination that (A) the Buyer is creditworthy and can afford to make the mortgage payments and (B) that the Property appraises for at least the principal amount of the loan. Even if a Buyer has obtained a prequalification or pre-approval letter from a lender, the lender may not ultimately approve the loan if the lender's appraiser determines that the Property's fair market value is less than the amount of the purchase price or if the Buyer's financial/employment situation has changed. If there is no financing contingency and the Property does not "appraise", the Buyer may not be able to afford to make up the difference between the loan amount applied for and the loan amount actually offered by the lender. Under those circumstances, the Buyer may not be able to perform on Buyer's contractual obligations. This could then result in the Buyer paying damages to the Seller. It is a serious risk for a Buyer to eliminate from the purchase contract their right to have a financing contingency if they intend to secure a loan.

2. SHORT SALES:

Sellers facing mortgage difficulties have several options including a loan modification, short sale, foreclosure, deed in lieu of foreclosure and bankruptcy; each seller's situation is different. The Seller's decision as to which of these options are chosen may affect the Seller's taxes, credit rating, and/or future options. Brokers and their agents cannot, and will not, provide tax, credit and/or legal advice regarding these possible options, or how any of these issues may affect any sale of the Property. Because of these important issues, prior to proceeding with a short sale, Sellers are strongly urged to consult with a Certified Public Accountant, credit consultant, and/or an attorney specializing in real property, taxation and bankruptcy issues. To the extent that Seller fails to obtain this necessary advice, Seller is acting against the advice and recommendation of Broker.

Seller and Buyer are advised that the sale of the Property will result in a "short sale" if there is insufficient equity in the Property to pay off all of the liens, including deeds of trust, judgments, unpaid taxes and any other debts that have been recorded against the Property and/or the closing costs, including real estate commissions. Therefore the Seller's lender(s) must agree to take less money than they are legally entitled to receive so as to enable the Seller to sell the Property to the Buyer for the terms agreed to in the purchase agreement.

Seller and Buyer acknowledge that as part of the short sale approval process the lender(s) will issue a letter or other document detailing the terms and conditions upon which the lender(s) will agree to a short sale ("Term Sheet"). The Term Sheet must be adhered to by all parties. A Seller is only entitled to the lender-approved short sale if ALL of the terms and conditions required by the lender(s) are fully met. There is potential liability for any party who tries to circumvent or "work around" those terms and conditions either through escrow or outside of escrow. All payments to be made by any party to anyone as part of the Buyer's acquisition of the Property must be fully disclosed to all lenders and approved by all lenders.

There may be significant legal and/or tax ramifications to the Seller as the result of a short sale. For example, the Term Sheet may: (A) Require that the Seller sign a new note, and possibly even record a Deed of Trust against other property owned by Seller; (B) State that the Seller remains liable for any amount forgiven by the lender(s) as a result of the short sale; (C) State that the lender(s) reserve their right to hold the Seller liable for that amount in the future; or (D) Be silent as to future seller liability for that amount. As such, Seller should not even consider approving the lender's Term Sheet and/or proceeding with a short sale without first reviewing their legal and financial status with appropriate professionals, including but not limited to attorneys who specialize in bankruptcy issues and financial advisors who understand the tax implications of reducing the Seller's debt as part of a short sale.

In a short sale, Seller's lender(s) are not obligated to approve the short sale and they are not obligated to provide any type of response regarding the short sale during any set period of time.

If the Seller has ceased making mortgage payments, the lender(s) may file a Notice of Default and proceed with a foreclosure action notwithstanding the fact that there are ongoing short sale

negotiations. Negotiating a short sale does not stop the foreclosure process. Seller and Buyer understand and acknowledge that the Broker and agent cannot and do not guarantee that a short sale can be obtained from the lender(s) and/or that the foreclosure process can or will be stopped. If a Notice of Default has been filed, Seller should immediately consult with a real estate and/or bankruptcy attorney.

Seller and Buyer acknowledge that: (a) they have been advised that the sale may not close unless all of the lienholders agree to take the amount that is offered to them (as specified by the Term Sheet) which may be considerably less than the amount that is owed to them; (b) escrow could be delayed for a substantial period of time as a result of resolving the various issues involved in a short sale; (c) Agent cannot and does not guarantee that escrow will actually close or when it will close; (d) they have a duty to exercise reasonable care to protect their own interests by conducting their own investigation and verification of all information that has been or will be provided to them regarding the short sale process and/or the Property; (e) Agent cannot and will not provide any tax or legal advice regarding the legal or practical effect of a short sale transaction or a possible foreclosure; and (f) it is their responsibility to consult with their own legal and tax professionals regarding the effects of the short sale.

3. BANK-OWNED (“REO”) PROPERTIES:

“REO” stands for “real estate owned” which is how banks and other lenders categorize real property that they have taken back on either a foreclosure or a “deed in lieu” of foreclosure. When a bank is the seller, there are substantial differences in the way the transaction proceeds, as compared to how it typically works when the seller is a person. These differences include, but are not limited to, the following:

Depending on whether the REO seller acquired the property through foreclosure, the seller may not be required to give the buyer a Transfer Disclosure Statement (“TDS”) describing the condition and features of the property, or to complete other important disclosure forms regarding natural hazards, taxes, bonds and assessments affecting the property, earthquake safety information, and information about nearby industrial and military weapons sites.

REO properties may also be “distressed” as a result of neglect and/or vandalism. But, the lender/seller may have little or no knowledge of the property. While lender/sellers who have acquired property by foreclosure do not have to complete a TDS, they are still required to disclose any conditions or defects affecting the value or desirability of the property (just not on a TDS), including repairs completed by the lender/sellers or their agents, and make other required disclosures. However, those disclosures may be of little value in light of a lender/seller's limited knowledge of the property.

Buyer is advised to fully investigate the condition of the property including obtaining any and all necessary inspections by appropriate experts. Brokers and agents advise against closing escrow without obtaining and understanding all legally-mandated disclosures from Seller, and securing all necessary inspections and investigations as recommended.

The lender/seller may give you a verbal “acceptance” of your offer. Such acceptances are generally not binding, in the absence of other writings sufficient to constitute an agreement to sell. If you are in doubt as to whether you have a binding agreement, you should consult your own real estate attorney.

REO lender/sellers usually will attach a lengthy Addendum to the standard form purchase agreement, or may even require the use of their own contract form. These addenda and contracts have been drafted by the attorneys for the lender/seller and generally are drafted to favor the lender/seller. It is strongly recommended by your agent that you review this Addendum or contract with an attorney, because real estate licensees are not qualified or competent to give you advice on legal documents drafted by attorneys for other parties.

If you receive such a lender/seller Addendum or contract, read it thoroughly for understanding since it will affect your contractual rights. Some clauses may limit to take away your legal rights in certain circumstances, or limit your recovery against the lender/seller. Some clauses may impose per diem charges for delays in closing. Other clauses may require you to hold the lender/seller harmless and release the lender/seller from certain potential liabilities. Again, your agent strongly recommends that you get any questions you may have answered by your attorney.

B. PROPERTY ADVISORIES

4. **EXISTING HOUSING STOCK:** Many properties in this area have been built under different building codes. Regardless of the age of the Property, Buyers should have the Property inspected by a competent property inspector and to have any additional inspections that are recommended in any inspection report, or as may be necessary or desired by Buyers to determine the actual condition of the Property. The Property's components, appliances, fixtures, systems and materials may have varying degrees of remaining useful life and may be subject to failure without notice. In addition, not all components, improvements or fixtures of the Property may comply with current code, zoning, health and safety, setback requirements, religious or cultural preferences. Some homes contain appliances, products or manufactured materials, such as Chinese dry wall, which may be defective, create problems with the use or value of other aspects of the home and/or may be subject to manufacturer or governmental recall and/or a class action lawsuit. All homes include many components which require ongoing maintenance. Deferred maintenance will decrease the lifespan and/or functionality of many of these components. Buyers should seek reliable advice from appropriate professionals and to plan/budget for maintenance and future repairs.
5. **FLOORS AND WALLS:**
The personal property of the Seller may make a visual inspection of floors and walls difficult. The existence of certain types of flooring, such as carpeting and rugs, as well as certain types of wall coverings, such as wallpaper and paneling, as well as furniture prevent inspectors and brokers from inspecting the condition of the floors and walls beneath those materials. When exposed, these areas may have a different pattern of wear or shade of color. If the Buyer desires to determine the condition of the floors and walls beneath such coverings, Buyer will need to secure the written authorization of Seller to conduct investigations with appropriate professionals since removal of floor coverings may be required.
6. **TEMPERED GLASS:**
Many homes contain glass that IS NOT tempered in locations where tempered glass IS required by building regulations. Buyer is advised to have a contractor's inspection to identify the presence of any glass that is not properly tempered before removing a physical inspection contingency on a prospective purchase of real property. Buyer should consider replacing any non-tempered glass with tempered glass to reduce the risk of injury.
7. **TREES AND VEGETATION:**
Protected Trees: Most cities have an ordinance that requires property owners obtain a permit prior to removing *Protected Trees* from their property. *Protected Trees* are defined within the code of each city. Removing or damaging any *Protected Tree* without the proper permit constitutes an infraction. In addition to the cost of the infraction, violators are liable for damages for an amount up to the value of the removed tree. The City may place a lien on the property if the infraction is not paid on a timely basis. That lien may subsequently be added to the county property tax bill.

Hazardous Trees: Some cities define hazardous tree conditions within their Municipal Building Codes and address ways of mitigating those conditions on both private and public property. There are stringent time frames for responding to hazardous tree claims. If hazardous tree claims are not resolved privately, a claimant may, as a last resort, take the claim through the court system.

View Ordinance: Some cities have a view ordinance that provides that no person shall allow a tree to unreasonably obstruct the view that existed at the time of purchase of the property. Certain trees that are part of the natural habitat can be exempt from this law. Often a view property will have recently trimmed trees and shrubs revealing the view. Buyers should take note that maintaining that view could entail not only trimming foliage on their own property, but also enlisting the cooperation of their neighbor to keep their foliage trimmed, usually at the Buyers' expense. Cities do not take an active role in these issues; rather it encourages the private resolution of such disputes. Each city has a slightly different mechanism for handling these situations, and buyer is encouraged to review the Municipal Code during their inspection period.

Buyer is encouraged to seek the advice of a licensed arborist for any questions regarding trees on subject property or on neighbor's property.

8. CREEK PROTECTION ORDINANCE

Many properties are impacted by creeks (a narrow channel or small stream) and/or a culvert (a manmade structure used to enclose a flowing body of water which is usually designed to allow water to pass underneath a road or other structures). If the Property includes, abuts or is located near a creek or culvert, Buyer should investigate the possibility of flooding and/or water intrusion or other nuisances that may result from proximity to those water sources by contacting appropriate experts. Brokers cannot determine these issues. In addition, some cities and counties have enacted regulations regarding creeks and culverts, such as Berkeley and Oakland. Buyers need to review local ordinances with their own experts before commencing any work in, over or near a creek or culvert.

9. HVAC/DUCTING:

The California Energy Commission has issued New Duct Sealing Requirements that became effective on October 1, 2005. Depending upon certain conditions and the location of the Property, if a central air conditioner or furnace was installed or replaced after October 1, 2005, the ducts must be tested for leakage. If the ducts leak 15% or more, then repairs must be made to seal the ducts. Additional testing may then be required to verify that the work was done properly. It is strongly recommended that all of this work be done by licensed contractors who should obtain all required permits. Only a contractor who has specialized knowledge regarding HVAC systems can determine whether or not the ducts must be sealed.

While portions of Alameda and western Contra Costa Counties are exempt from this requirement, only a review of the official map of the California Energy Commission can determine whether a particular property is exempt. **See Map for applicable Climate Zones at:**
http://www.energy.ca.gov/maps/climate_zone_map.html

10. FIREPLACES/WOODSTOVES:

Due to public health concerns regarding particulate matter from wood smoke that may be affecting air quality in this area, if the property has a wood-burning appliance ("wood-burning appliance" includes but is not limited to a fireplace insert, a free standing wood stove, or a wood heater or masonry fireplace, but does not include appliances or fireplaces that burn solely propane or natural gas or pellets as fuel), Buyer is advised that certain cities and towns within Alameda and Contra Costa Counties have enacted or are considering ordinances that may affect existing and future wood-burning appliances at the property, and Buyer should contact all relevant public agencies regarding the applicability of these ordinances to Buyer's purchase of the property.

11. SEPTIC SYSTEM/WASTEWATER TREATMENT SYSTEM REGULATIONS:

If the Property has a septic system, it is essential that the Buyer secure a current, written report detailing the inspection of the tank and the leach field lines by a licensed, competent professional to determine the condition of the system as well as the adequacy of the system for the Buyer's

specific needs. Visual inspection of the tank alone is insufficient. Brokers do not have the necessary expertise to make those determinations.

Expansion or remodeling of the dwelling may be restricted due to the existence of the septic system. Securing approval for changes in the dwelling may be conditioned upon testing, removal, repair, or other changes to the system which may be expensive. The septic system may not be in compliance with current or future code requirements and code compliance may be required for any future work done on the Property. Buyer should investigate these issues with appropriate experts. Brokers cannot determine these issues.

Buyer can get more information about OWTS/Septic System regulations by contacting the State Water Resources Control Board, 1001 I Street, Sacramento, California 95814 or at Post Office Box 100, Sacramento, California 95812; (916) 341-5250 and by reviewing the SWRCB's website: <http://www.swrcb.ca.gov/ab885/index.html>

12. UNDERGROUND STORAGE TANKS (UST):

Many of the larger, older homes in this area built before 1935 may have or have had an Underground Storage Tank for the fuel oil that fired the property's furnace. As natural gas became the more common standard fuel for home furnaces, virtually all of the old furnaces have been replaced. However, many of the fuel oil tanks remain buried on the property. In residential applications, the California State Water Resources Control Board regulates all UST's in California. The licensing, inspection and regulation of UST's in residential application is currently exempt provided the tank is less than 750 gallons and was used for fuel oil only. However, this does not guarantee that you would be exempt from abatement if a UST is discovered upon your property. Each municipality has very different regulations concerning UST's that may include removal and soil cleanup of any toxic material that may have leaked from the tank. You are advised to speak directly to the Public Work Department, Building Department and/or Fire Department in your city concerning specific regulations affecting UST's.

13. CONDOMINIUMS, COMMON INTEREST DEVELOPMENTS AND HOMEOWNERS ASSOCIATIONS:

If the Property is located in a Common Interest Development, the Seller can request that the Homeowners' Association (HOA) provide certain required documents regarding the HOA operation and expenses to meet the Seller's disclosure obligations under Civil Code Section 1368. Some neighborhoods have established HOAs that may charge dues and enforce their own restrictions. It is strongly recommended that Buyers receive the current

HOA documents directly from the HOA rather than from any on-line service or from an earlier transaction. Buyers need to carefully examine all of the documents that are provided regarding the HOA and compare the documents with the list of required disclosures specified in the HOA form from the California Association of REALTORS®. If any document(s) are missing, Buyer should send a written request to the Seller that the Seller provide the missing documents and/or provide a written explanation for why the document(s) were not included with the other HOA documents. Buyers should retain the services of experts, such as attorneys, accountants or others who specialize in reviewing HOA documents to determine the adequacy of the reserves and whether or not the Property is suitable for the Buyer's intended uses.

Due to noise and other factors, an HOA may restrict the type of floor and/or wall material that can be used in certain units and/or the number of pets. Buyers should directly contact the HOA Board to determine whether or not the Property can be used for Buyer's intended purposes. Buyer should also determine whether or not the Property meets Buyer's subjective personal preferences.

Many Condominiums and other Common Interest Developments have been involved in or are presently involved in litigation regarding the design, construction, maintenance and/or condition of all or a part of the Development. Whether or not these lawsuits are successful, litigation is

expensive and the cost of such legal actions may impact not only the adequacy of the HOA reserves but also the amount of current or future assessments.

Occasionally issues arise in the purchase of Property in a Common Interest Development regarding parking and/or storage spaces associated with a single interest or unit in the Development. Buyers should determine for themselves whether or not the allotted parking space(s) are adequate to park the Buyers' vehicle(s) in the assigned spaces by actually parking in those spaces. Parking space(s) and storage space(s), if any, may be described in a Condominium Map or in the Preliminary Report issued by a Title Company. The actual markings, striping and numbering of these space(s) may not accurately reflect the actual spaces and may be in conflict with the space(s) designated in the recorded documents. It is therefore crucial that Buyer personally determine that the parking and storage space(s) that are designated in the recorded documents are actually being transferred to Buyer and that those space(s) are acceptable for the Buyers' intended needs and uses of the Property.

The existence of HOA insurance does not necessarily mean that there is insurance coverage for any given single interest or unit in the Development, an owner's remodeling or upgrade efforts and/or the owner's contents. See Insurance information below.

14. TENANCIES IN COMMON:

Tenancy in Common is a form of ownership by which all of the owners of the property (the "co-tenants" or "tenants-in-common") are deemed to own undivided interests in the entire property, in percentages set forth in their respective deeds. By agreement, the owners may assign to one another specific occupancy and other rights. Usually, all of the owners are fully liable for the mortgage, and the mortgage cannot be modified without the consent of the lender and all of the owners. These are extremely complex relationships requiring, among other matters, a carefully written tenants-in-common agreement setting forth the rights and responsibilities of all of the owners, including rights of exclusive occupancy of specific units, financial obligations, restrictions on use, use of common areas, restrictions on subsequent sales and dispute resolution mechanisms. Real estate agents and brokers are not qualified to review and analyze tenants-in-common agreements. Prior to purchasing a TIC property, Buyer is strongly urged to seek competent legal counsel to review any existing tenants-in-common agreement, and otherwise to advise Buyer regarding the nature of this form of real estate ownership generally, and regarding this particular tenants-in-common arrangement.

15. INSURANCE:

During the inspection contingency, Buyer should consult with an insurance broker to determine the cost of homeowners' insurance as well as the types of coverage that may be available and any conditions that the insurance company is going to impose. For example, many insurance companies are refusing to provide homeowners' insurance coverage unless certain retrofit requirements are met, such as installation of safety glass and/or fireplace spark arresters and a gas shut-off valve. The fact that an insurance company may require these repairs does not necessarily mean that the Seller is obligated to pay for and/or make the repairs requested by the insurer. In addition, prior claims submitted by Buyer on other properties may affect the final cost of the homeowners' insurance on the property being purchased by Buyer. Buyer should investigate these matters thoroughly prior to removing their inspection contingency.

16. RE-KEYING:

All locks should be re-keyed immediately upon close of escrow so as to ensure the Buyer(s) safety and security of their person(s) as well as their personal belongings. Alarms, if any, should be serviced by professionals and codes should be changed. Garage door openers and remotes should be re-coded.

C. FEDERAL, STATE AND REGIONAL CONDITIONS ADVISORIES

17. A. UNSTABLE HILLSIDES:

Many areas of the Oakland and Berkeley Hills, and indeed other hillside properties in the area, are active and potentially active landslide areas. Many of the geologic forces which have shaped California over the eons are still active today. The only way to determine the nature of the soil and bedrock under a structure, and how these forces may affect those structures, is with a geologic or geotechnical inspection and report.

B. EXPANSIVE SOIL:

Some parts of the East Bay have expansive, or adobe, soil which will expand and contract with the wet and dry seasons. This expansion and contraction can cause movement or shifting of structures and their foundations.

C. HIGH WATER TABLES:

Some parts of the East Bay have high water tables that can intensify mold growth and compromise the stability of soil and/or foundation. In addition, high water tables may affect the use and enjoyment of the surrounding land, particularly during months of heavy rain. Buyers should consult the appropriate experts to help evaluate the effect of high water tables on the subject property and when necessary consider drainage modifications to protect the structure and improve the use and enjoyment of the surrounding landscape.

Reports from Natural Hazard Disclosure (NHD) companies may not contain all of the information from all sources regarding the property and surrounding conditions, and cannot be relied on for all information regarding natural hazards which may affect the property. Brokers recommend that Buyers have any property they are purchasing inspected by a qualified geologist, geologic or geotechnical engineer, or other qualified professional.

18. WET WEATHER CONDITIONS:

At times, this area may have months with heavier than usual rainfall. During these times, hillside properties may be susceptible to earth movement and drainage problems. Properties on flatlands may be susceptible to flooding. Properties which may not have experienced water intrusion into or under the property in the past may experience these conditions as a result of weather-related phenomena. Sellers are obligated to disclose to buyers those material defects or conditions known to them which affect the value or desirability of the property; however, not all Sellers may be aware of recent changes in the conditions of the property or its improvements caused by unusually wet weather. Because of these factors, it is recommended that, in addition to a home inspection, Buyer have such additional inspections by inspectors or engineers regarding these conditions as Buyer may desire.

19. EAST BAY CLIMATE CONDITIONS:

The East Bay area exhibits several micro climates. Buyer is advised that these areas are subject to frequent strong winds, wind-driven rain, fog, salty sea air and mist, and direct sunlight, any of which, alone or in combination, can impact the condition of the land as well as prematurely age the interior and exterior of structures. Erosion, warping and cracking of surfaces, failed seals on dual-paned windows, loss of roof shingles, and water intrusion, among other problems, are not uncommon with such properties, and thus these properties require regular, thorough maintenance. Buyer is advised to fully investigate these conditions and the increased maintenance and repairs that may be needed for any Property located in these coastal areas.

20. PERMIT ISSUES:

Some improvements to property such as repairs, remodels and additions may have been done without a required permit. One such example would be where a second living unit ("in-law unit") is being rented by the Seller but the required permit was not obtained for this in-law unit. An improvement that is made without the required permit can, among other things, have a negative impact on value, require a retrofit, impact habitability, preclude insurance coverage and/or result in fees, penalties, government and/or civil enforcement actions. In some cities, there may be a lower standard applied in those circumstances where the property owner is obtaining the permits,

as opposed to a contractor doing so. Further, in some cities, such as Piedmont, the city may, upon noticing a non-permitted item, conduct an investigation of the property and the entire permit history and require the current owner to bring the property into current compliance. See Section D, City Advisories, for more information on Piedmont properties.

21. NONCONFORMING ROOMS, ALTERATIONS OR ADDITIONS:

Buyers are advised that any rooms, alterations or additions to the property which were made or constructed without necessary permits or certificates of completion (“nonconforming improvements”) may be subject to fines, permit costs, construction costs, and other expenses to bring into conformity. In some cases, nonconforming improvements may be subject to removal by local building inspection and code enforcement agencies. Nonconforming rental units may be required to be vacated and possibly torn down. It might not be possible to legalize such nonconforming improvements because of zoning or permit issues and/or other legal or regulatory limitations. Some East Bay building inspection and code enforcement agencies may conduct random inspections of properties for permit, code and other violations while the property is being marketed. Such nonconforming improvements may also be discovered when anyone applies for a permit to do work on the property either before or after escrow closes. Whenever nonconforming uses are discovered, the then-current owner could face expensive repairs, permit fees and other costs and/or even removal of the nonconforming improvement.

While sellers are obligated to disclose any known nonconforming improvements, the seller may not be aware of some or all illegal improvements or uses especially those that were made prior to the seller’s ownership of the property. In addition, real estate brokers and agents are not required by law to inspect public records and cannot determine the legal status of improvements based solely on their required visual inspection of the property. For these reasons, buyers are strongly urged to investigate possible nonconforming improvements by personally contacting the local building inspection and code enforcement agencies as well as obtaining the advice of contractors, architects, engineers or other professionals regarding the status and condition of the property prior to removing inspection contingencies.

22. CODE COMPLIANCE AND ENFORCEMENT:

If this is not a new property, not all aspects, components and structures on the property may comply with current code. This may be because code requirements have changed since the improvements were first constructed or, in some cases, improvements may have been made by the current owner, or even by prior owners without the knowledge of the current owner. Real estate brokers are not qualified to identify code violations. If the applicable city or county building department discovers the code violations, the current owner may be required to bring the property into current code compliance or remove or demolish the portion of the property that is in violation. Various building departments take different approaches to enforcement; some are more strict than others. Prior to removal of the inspection contingency, Buyers should have the home inspected by a qualified home inspector who can identify code violations and comment on local codes, regulations and practices regarding enforcement.

23. UNDERGROUND UTILITIES:

Some towns and cities have begun the process of burying utility lines underground in order to remove the utility poles in the neighborhood. These projects can result in special tax assessments and set up costs for the individual homeowners. It is recommended that Buyer investigate this issue with the Pacific Gas and Electric Company (“PG&E”).

24. SAN FRANCISCO BAY REGULATIONS:

The San Francisco Bay Conservation and Development Commission (“BCDC”) is charged with the responsibility of restoring Bay wetlands and marshes, preventing wetlands and mudflats from being filled, and supporting the continued and productive use of salt ponds. Properties abutting San Francisco Bay, its tidelands and marshes, may be subject to the jurisdiction of the BCDC which may limit building, and impose other requirements on property owners. Buyers of such property are urged to contact BCDC at (415) 352-3600.

25. REAL PROPERTY TAXES AND ASSESSMENT DISTRICTS:

The Purchase Agreement addresses payment of real property taxes and assessments relating to the Property. As part of their negotiations for the Purchase Agreement, the parties may decide how to prorate such taxes and assessments; payments on bonds and assessments and their assumption by Buyer; and payment on Mello Roos and other Special Assessment District bonds and assessments that are now a lien on the Property.

The existence of Mello-Roos and 1915 Bond districts will be reported in a report by a Natural Hazard Disclosure (NHD) company. Most other assessment districts will be reported in the Preliminary Report from the title company. Still others may be disclosed by Seller or local disclosure. The Seller's tax bill alone does not necessarily reflect all of the costs related to taxes and assessments on real property. If there is a question as to whether an existing bond or assessment will be prorated as of the close of escrow, or whether Seller will pay off the bond or assessment at close of escrow, Buyer is advised to discuss the matter with the appropriate District prior to removal of the appropriate inspection or title contingency, and to address responsibility for payment of taxes and assessments in the negotiations for the Purchase Agreement.

26. SCHOOLS:

Some school districts have experienced financial and academic achievement difficulties and, as a result, may face bankruptcy, reorganization or takeover by a state administrator. Each school district has its own rules regarding school assignments, and these rules may change at any time with little notice. For these reasons, brokers cannot represent or guarantee that anyone who resides in any particular property will be able to attend any particular school or school district. These and any other factors or concerns of buyers should be investigated by buyers prior to removing inspection contingencies in a purchase agreement.

27. RESIDENTIAL RENTAL UNIT ANNUAL FEE: Some cities charge landlords a "Residential Rental Unit Annual Business Tax License Fee." Here is a partial list of cities with such fees. Please be advised that a city may impose or change such fees after you purchase the property. Please contact the city in which your rental property is located for the most current list of such fees:

Alameda: \$20.00 annually for each rental unit. Single family units on an existing parcel of record are exempt.

Berkeley: \$10.81/\$1000 of gross rental receipts annually for all Residential Property with 3 or more units on an existing parcel of record. Single family units and duplexes are exempt.

Emeryville: Owners of all residential rental units shall pay the greater of \$25.00 or 0.08% of all gross rental receipts annually, not to exceed a total of \$75,000.

Oakland: Owners of all residential rental units shall pay \$13.95/\$1000 of gross rental receipts annually.

Albany: Owners of all residential units shall pay \$76.00 per unit annually.

El Cerrito: Owners of all residential units shall pay \$82.00 per unit annually.

28. RENT CONTROL ISSUES:

The Cities of Berkeley, Oakland and Richmond have a form of Rent and Eviction Control. Buyers are advised to investigate these ordinances and to satisfy themselves as to the applicability of these ordinances to their intended use of the property.

29. SEWER LINE INSPECTION AND COMPLIANCE:

The East Bay Municipal Utility District (“EBMUD”) Wastewater Control Ordinance requires property owners in certain areas of the EBMUD wastewater service area to obtain a compliance certificate that shows their private sewer laterals (“PSL’s”) are without defects and have proper connections. The ordinance specifies three conditions which require property owners to test and, if needed, repair or replace their private sewer laterals:

- Prior to selling the property; or
- When obtaining any permit for the construction or modification of the property estimated to be greater than \$100,000; or
- When increasing or decreasing the water meter size.

However, a property is exempt if the PSL on an affected property is less than 10 years old and was fully replaced before August, 2011, and the owner provides evidence of the replacement work and date performed.

These EBMUD requirements affect properties in the EBMUD wastewater service area in Emeryville, Oakland, Piedmont and the Stege Sanitary District communities of Kensington, El Cerrito and Richmond Annex. The cities of Alameda, Albany and Berkeley have local private sewer lateral ordinances already in effect.

The private sewer lateral program requirements for property owners will be phased in according to the following schedule:

- Piedmont – August 22, 2011
- Emeryville – August 22, 2011
- Kensington, El Cerrito and Richmond Annex – October 17, 2011
- Oakland – January 16, 2012

Responsibility for repairs can be negotiated between the Buyer and Seller. If the repairs cannot be completed prior to Close of Escrow, a property owner may apply to EBMUD for a 180 day Temporary Waiver and pay the \$150 fee.

For detailed and current information on the property’s compliance status, and the inspection, repair, temporary waiver and/or certification process, sellers and buyers are urged to go to the EBMUD/PSL site at <http://www.eastbaypsl.com/eastbaypsl/>

30. GAS SHUT-OFF VALVES:

On February 9, 2010, the Contra Costa County Board of Supervisors revised an existing Ordinance regulating installation of approved gas shut-off devices in new buildings and in existing residential, commercial and industrial buildings prior to the sale of those buildings or when undertaking certain alterations or additions to those buildings located anywhere in the unincorporated areas of Contra Costa County if the building has a natural gas piping system. This law also applies to the sale of individual condominium units. The Ordinance seeks to make buildings safer in case of a breakage or disconnection of a gas line caused by earthquakes, landslides or common household accidents. Some insurance companies provide discounts on their homeowner’s insurance coverage if such devices are in place.

This Ordinance does not contain any exceptions or exemptions for the type of sale (such as probate); Buyers and Sellers cannot agree to waive compliance with this Ordinance. The County is now requiring that on all improved real property that closes escrow after December 1, 2006 and that have

fuel gas piping supplying a structure with gas, an approved seismic gas shut-off device (motion sensitive) or an approved excess flow gas shut-off device (non-motion sensitive) must be installed prior to the close of escrow:

1. For the sale of existing residential, commercial or industrial buildings, the approved gas shut-off device must be installed downstream of the gas utility meter at the beginning of each rigid gas piping system that serves the structure.

2. For the sale of existing condominium units, the approved gas shut-off device must be installed downstream of the meter on the gas piping serving the actual condominium unit that is being sold.

If any existing residential building is altered or added to that has fuel gas piping supplying the existing building or the addition and the building permit is issued after March 11, 2010, the approved gas shut-off device must be installed if the alteration or addition is either more than \$5,000 where fuel gas piping is involved in the alteration or addition, or more than \$15,000 where fuel gas piping is not involved in the alteration or addition.

For a list of the approved gas shut-off valves, please visit the homepage for the California Division of the State Architect website at <http://www.dsa.dgs.ca.gov> and search the site for gas shutoff devices.

NOTE: Real estate licensees cannot determine whether any Property is in compliance with this Ordinance and Agents have no liability for insuring that there is compliance with this Ordinance. Seller and Buyer should retain appropriate experts to investigate the existing gas lines to determine whether the required shut-off devices are in place. Buyer and Seller should reach a written agreement as to who is to pay for the inspection and/or the installation of any required devices since the Ordinance does not specify which Principal must be financially responsible.

D. CITY ADVISORIES

31. **PIEDMONT OPEN-PERMITS AND NON-PERMITTED CONSTRUCTION:**

The City of Piedmont maintains a house file for every Piedmont residence. While the City does not verify or guarantee the accuracy of the information contained in the house file, a person considering the purchase of a Piedmont residence is encouraged to review the file prior to completing the purchase. As a Purchaser of a home in Piedmont, you are strongly advised to:

- 1) Review the Building Permit File. Be aware that No New Permits will be issued for construction, repair or remodeling on the property if any historical permits are still open.
- 2) Consider the permits in the file when reviewing the current condition and amenities of the home. Be aware of construction or renovation that may have been done without permit.
- 3) **Any Non-Permitted work at any time in the history of the property, and discovered by a City Official, likely will result in a Demand for Compliance by the Public Works Department.**
- 4) Regardless of when the Non-Permitted work was performed on the property, the City of Piedmont considers the current owner responsible for compliance.
- 5) Compliance can be obtained by:
 - a) Removing the illegal construction, thereby returning the structure to the original condition,
 - b) Obtaining a retroactive approval to bring the illegal construction into compliance or
 - c) Seek an entirely new permit to modify the illegal construction and bring it into compliance.
- 6) The City Council can impose fines of up to \$1,000 per day, not to exceed a total of \$100,000 if the condition is not brought into compliance within a reasonable amount of time.

To determine if there is any unapproved construction, go to the Department of Public Works, 120 Vista Avenue, Piedmont to review the house file and request a permit history.

RETROACTIVE PERMIT COMPLIANCE PROCESS

In order to determine if a property currently has any Illegal Construction, a homeowner may choose to have their home inspected. The options below are **SUGGESTIONS ONLY**. There is no current policy within the City of Piedmont as to a required inspection process.

1. If there is a suspicion of Illegal work or Non-Permitted construction on the property, the homeowner may choose to schedule an inspection with Chief Building Inspector for the City of Piedmont. This official can review the building record for the property and conduct an on-site inspection of the property. If illegal construction is found, the Public Works Department will then issue an official notice of Non-Compliance.
2. The homeowner may choose to hire a Licensed Architect that has experience with the City of Piedmont permitting process to perform the on-site inspection and review of the building permit file. If there is any non-permitted construction or remodeling revealed, the Architect can then prepare a proposal for the scope of work and Permits necessary to bring the property into Permit compliance. The Architect may then discuss the proposal with the Public Works Department.
3. Once the scope of work is approved by the Public Works Department, the homeowner will need to:
 - a) Obtain any required approvals from Design Review,
 - b) Pay for the necessary Permits and any penalties,
 - c) Perform any remedial work required by the Permits,
 - d) Have all existing improvements and any new work that was required, inspected by the Chief Building Inspector.
4. When all construction has been approved, the Chief Building Inspector will give a **Final Inspection** and **Close the permit**. It is at this point that the property can be presumed to be in complete compliance.

For additional planning, building or zoning information please contact the Piedmont Department of Public Works at (510) 420-3050.

32. OAKLAND REGULATIONS:

Provided below is a list of Oakland's major regulations that relate to property ownership. These regulations, as well as the taxes and fees that are based on the regulations, may not apply to your particular property, but are provided as a convenient reference. This is not intended to be a complete list of such regulations. You may obtain copies of these and other codes and ordinances enacting these regulations from Oakland's Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland, CA 94612, (510)238-3611, between 8:30 a.m. – 5:00 p.m., Monday through Friday, or by downloading them from the Municipal Code link on the City's website: www.oaklandnet.com.

- [Business Tax](#)
- [Garbage Collection](#)
- [Real Property Transfer Tax](#)
- [Landscaping and Lighting Assessment District](#)
- [Mello-Roos Community Facilities District](#)
- [Emergency Medical Services Assessment District](#)
- [Paramedic Services Assessment District](#)
- [Library Services Retention Assessment District](#)
- [Fire Utility Underground Assessment District](#)
- [Medical Hill Parking Assessment District](#)
- [Lakeshore Ornamental Lighting Special Assessment District Phase I & IV](#)
- [LaSalle Utility Undergrounding Assessment District](#)
- [Harbor Utility Undergrounding Assessment District](#)
- [Grizzly Peak Utility Undergrounding Assessment District](#)

- [Skyline Sewer Assessment District](#)
- [Rockridge Area Water Improvement Assessment District](#)
- [Lakeshore/Lake Park Business Improvement Management District](#)
- [Fruitvale Business Improvement District](#)
- [Report of Residential Building Record](#)
- [Residential Rent Arbitration Section](#)
- [Tree Ordinance](#)
- [Hazardous Tree Ordinance](#)
- [View Ordinance](#)
- [Earthquake Safety](#)

33. HERCULES SEWER LATERAL REQUIREMENT:

The City of Hercules requires that the sewer laterals be cleaned, inspected and, if necessary repaired prior to the close of escrow UNLESS it is a probate transfer or some trust transfers in which case it must take place within 180 days of the transfer. If it is an inter-spousal transfer there is a complete exemption. There is a provision of a “hardship” exception.

34. ALBANY SMOKE DETECTOR ORDINANCE:

The City of Albany requires that, prior to the sale of any real property, the property owner shall upgrade the smoke alarm/smoke detector system to photoelectric-only devices. There are exemptions for hardships and infeasibility of compliance.

E. SOURCES OF INFORMATION

City of Alameda: <http://www.ci.alameda.ca.us/>
2263 Santa Clara Ave, Room 380 Alameda, CA 94501 Tel: 510/747-4800
Police <http://www.ci.alameda.ca.us/police/> Tel: 510/337-8340

City of Albany: <http://www.albanyca.org/>
1000 San Pablo Ave, Albany CA 94706 Tel: 510/528-5710
Police <http://www.albanyca.org/dept/police.html> Tel: 510/525-7300

City of Berkeley: <http://www.ci.berkeley.ca.us/>
2120 Milvia Street, Berkeley CA 94704 Tel: 510/981-7440
Berkeley Rent Control: <http://www.ci.berkeley.ca.us/rent/>
2125 Milvia Street, Berkeley, CA 94704 Tel: 510/644-6128
Police <http://www.ci.berkeley.ca.us/police/> Tel: 510/981-5900

City of El Cerrito: <http://www.el-cerrito.org/home/>
10890 San Pablo Avenue, El Cerrito CA 94530 Tel: 510/215-4300
Police <http://www.el-cerrito.org/police/> Tel: 510/215-4400

City of Emeryville: <http://www.ci.emeryville.ca.us/>
1333 Park Ave, Emeryville CA 94608 Tel: 510/596-4300
Police <http://www.ci.emeryville.ca.us/police/> Tel: 510/596-3700

City of Hercules: <http://www.ci.hercules.ca.us>
111 Civic Drive, Hercules, CA 94547 Tel: 510/799-8200

City of Oakland: <http://www.oaklandnet.com/>
250 Frank Ogawa Plaza, Ste 5313, Oakland CA 94612 Tel: 510/238-3501

Oakland Rent Control: <http://www.oaklandnet.com/government/hcd/rentboard/index.html>
250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA 94612 Tel: 510/238. 3721
Police <http://www.oaklandpolice.com/> Tel: 510/777-3333

City of Piedmont: <http://www.ci.piedmont.ca.us/>
120 Vista Avenue, Piedmont, CA Tel: 510/420-3040
Police <http://www.ci.piedmont.ca.us/> Tel: 510/420-3000

City of Richmond: <http://www.ci.richmond.ca.us/>
1401 Marina Way So. , Richmond CA 94804 Tel: 510/620-6513
Police <http://www.rpdonline.net/main/home.htm> 510/233-1214

City of San Leandro: www.ci.san-leandro.ca.us
835 E. 14th St, San Leandro Ca 94577 Tel: 510/577-3420

City of San Pablo: <http://www.ci.san-pablo.ca.us>
13831 San Pablo Avenue, San Pablo, Ca 94806 Tel: 510-215-3000
Police Tel: 510-215-3130

Stege Sanitary District: <http://www.stegesd.dst.ca.us/>
7500 Schmidt Lane, El Cerrito CA 94530 Tel: 510/524-4668

West County Waste water District: <http://www.wc wd.org>
2910 Hilltop Dr, Richmond, Ca 94806 Tel: 510/222-6700

Other areas in Alameda and Contra Costa counties: <http://www.co.contra-costa.ca.us/> or
<http://www.co.alameda.ca.us/>. See office addresses on website.

F. RECOMMENDATION TO RETAIN AN ATTORNEY AND ACCOUNTANT:

In addition to the professional service providers you will retain to inspect and analyze the property you are purchasing or selling, a situation may arise during the course of your purchase transaction that requires you to either make an important decision, or select a plan of action that could result in significant legal consequences and substantial impact on your personal finances. The most prudent and best plan is for you to identify a certified public accountant and real estate attorney in advance of the sale or purchase of your property so that you can quickly contact and seek the proper financial and/or legal advice and guidance if needed during the transaction.

G. THE PARTIES ACKNOWLEDGE THE FOLLOWING REGARDING BROKER:

- Broker does not warrant or guarantee the condition of the Property.
- Broker shall not be responsible for failure to disclose to Buyer facts regarding the condition of the property where the condition (i) is unknown to Broker or (ii) is not capable of being seen by Broker because it is in an area of the property that is reasonably and normally inaccessible to a Broker;
- Broker has not verified square footage or size of structures or land, boundary lines of the property, representations made by others (including but not limited to the Seller), information contained in inspection reports or in the Multiple Listing Service or that has been copied there from, or in advertisements, flyers or other promotional material, or any other matters described in this Disclosures and Disclaimers Advisory, unless otherwise agreed in writing;
- Broker does not guarantee and shall not be responsible for the labor or services or products provided by others to or on behalf of Buyer or Seller and does not guarantee and shall not be responsible for the quality, adequacy, completeness or code compliance of repairs made by Seller or by others;
- Broker does not decide what price Buyer should pay or Seller should accept; and
- Broker is not qualified to give legal, tax, insurance or title advice.

- Brokers lack professional expertise in the areas listed above, and do not verify the results of any inspections or guarantee the performance or reports of any inspection or professional service.

In these and all other matters referred to in this Disclosures and Disclaimers Advisory, Buyer and Seller are advised to seek any desired assistance from appropriate qualified professionals. Nothing any broker or sales agent may say will change the terms or effect of this Advisory.

This document may be signed in counterparts.

THE UNDERSIGNED ACKNOWLEDGE RECEIPT OF ALL SEVENTEEN (17) PAGES OF THE DOCUMENT.



Buyer

Dated: _____, 201__

Buyer

Dated: _____, 201__

CP Mitchell

Seller

Dated: *11/1/11*, 201__

Seller

Dated: _____, 201__