REAL ESTATE TRANSFER DISCLOSURE STATEMENT
(CALIFORNIA CIVIL CODE 1102, ET SEQ.)
CALIFORNIA ASSOCIATION OF REALTORS® (CAR) STANDARD FORM

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF ________, COUNTY OF ________, STATE OF CALIFORNIA.

DESCRIBED AS ________.

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF ______, 19____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example, special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

[List all substituted disclosure forms to be used in connection with this transaction]

II

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person on entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller ☐ is ☐ is not occupying the property.

A. The subject property has the items checked below (read across):

☐ Range
☐ Dishwasher
☐ Washer/Dryer Hookups
☐ Burglar Alarm
☐ TV Antenna
☐ Central Heating
☐ Well/Window Air Conditioning
☐ Septic Tank
☐ Pool/Spa
☐ Security Gate(s)
☐ Garage: ☐ Attached
☐ Pool/Spa Heater: ☐ Gas
☐ Water Heater: ☐ Gas
☐ Water Supply: ☐ City
☐ Gas Supply: ☐ Utility
☐ Exhaust Fan(s) in ______
☐ Microwave
☐ Oven
☐ Trash Compactor
☐ Window Screens
☐ Smoke Detector(s)
☐ Satellite Dish
☐ Central Air Conditioning
☐ Sprinklers
☐ Sump Pump
☐ Built-in Barbecue
☐ Pool
☐ Automatic Garage Door Openers
☐ Gas Starter
☐ 220 Volt Wiring in ______
☐ Fireplaces in ______
☐ Roofs: ☐ Type: ______
☐ Other: ______

☐ Are there, to the best of your (Seller’s) knowledge, any of the above that are not in operating condition? ☐ Yes ☐ No ☐ If yes, then describe. (Attach additional sheets if necessary): ______

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? ☐ Yes ☐ No ☐ If yes, check appropriate space(s) below.

☐ Interior Walls ☐ Ceilings ☐ Floors ☐ Exterior Walls ☐ Insulation ☐ Roofs ☐ Windows ☐ Doors ☐ Foundation ☐ Stairs
☐ Driveways ☐ Sidewalks ☐ Walls/Fences ☐ Electrical Systems ☐ Plumbing/Sewers/Septics ☐ Other Structural Components

Describe: ______

☐ If any of the above is checked, explain. (Attach additional sheets if necessary): ______

*This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code.

Reviewed by Buyer’s Attorney
Date ______

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© 1991-2002 CALIFORNIA ASSOCIATION OF REALTORS®
IN COMPLIANCE WITH CIVIL CODE SECTION 1102.2: EFFECTIVE JULY 1, 1991

BUYER’S INITIALS (_______) (_______) SELLER’S INITIALS (_______) (_______)

OFFICE USE ONLY

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REAL ESTATE TRANSFER DISCLOSURE STATEMENT (TDS-14 PAGE 1 OF 2)
C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property.

2. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property.

3. Any encroachments, easements or similar matters that may affect your interest in the subject property.

4. Room additions, structural modifications, or other alterations or repairs made without necessary permits.

5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes.

6. Landfill (compacted or otherwise) on the property or any portion thereof.

7. Any settling from any cause, or slippage, sliding, or other soil problems.

8. Flooding, drainage or grading problems.

9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides.

10. Any zoning violations, nonconforming uses, violations of "setback" requirements.

11. Neighborhood noise problems or other nuisances.

12. CC&R's or other deed restrictions or obligations.

13. Homeowners' Association which has any authority over the subject property.

14. Any "common area" facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others.

15. Any notices of abatement or citations against the property.

16. Any lawsuits against the seller threatening to or affecting this real property.

If the answer to any of these is yes, explain. (Attach additional sheets if necessary):


Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller: __________________________ Date: ________________

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the seller is represented by an agent in this transaction)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

Agent (Broker)
Representing Seller: __________________________ Date: ________________

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has listed the property is other than the agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

Agent (Broker)
Obtaining the Offer: __________________________ Date: ________________


V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller: __________________________ Date: ________________

Buyer: __________________________ Date: ________________

Seller: __________________________ Date: ________________

Buyer: __________________________ Date: ________________

Agent (Broker)
Representing Seller: __________________________ Date: ________________

Agent (Broker)
Obtaining the Offer: __________________________ Date: ________________

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE, IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

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Article 1

MODE OF TRANSFER

Section 1092. Consolidation of separate and distinct legal descriptions into single instrument of conveyance or security document; effect on separate nature of property.

$1091. Method of transfer

Law Review and Journal Commentaries

Donative and interposals transfers of community property in California. Where we are (or should be) after MacDonald. Jerry A. Kanner, 23 Pac.L.J. 361 (1991).

Notes of Decisions

10. — Signature, formalities of execution


12. Leases

In enforcing statute of frauds governing agreements that cannot be performed within one year generally and agreements to lease real property for period of more than one year, legislature intended that agreement to lease real property for term exceeding one year not be enforceable by lessee unless it is in writing and signed by lessor. Binkley, Rath & Beyond v. La Jolla, Inc. v. La Jolla Village Square Venture Partners (App. 4 Dist. 1997) 60 Cal. Rptr.2d 830, 82 Cal.App.4th 867.

$1093. Consolidation of separate and distinct legal descriptions into single instrument of conveyance or security document; effect on separate nature of property

Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one previously separate and distinct legal description), does not operate in any manner to alter or affect the separate and distinct nature of the real property so described in the subsequent single instrument of conveyance or security document containing either the listing of or the consolidated legal description of the parcels so conveyed or secured thereby.

This section does not constitute a change in, but is declaratory of, the existing law.

(Added by Stats.1985, c. 911, § 1.)

$1095. Attorney in fact; execution of instruments

Notes of Decisions

2. - Defective execution

Fact that debtor husband, acting as wife's attorney in fact in signing her name to deeds of trust, failed to comply with California statute requiring him to subscribe his own name as attorney in fact did not minimize his authority to bind wife to the deeds of trust where third-party banks reasonably relied on notarized acknowledgments of wife's signatures on the documents. In re Nelson, C.A.9 (Cal.1980), 761 F.2d 1320.

Article 1.5

DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY

Section 1102. Application of article; waiver of requirements.

Section 1102.2. Application of article.

Section 1102.3. Nonapplication of article.

Section 1102.4. Legislative intent; Chapter 817 of Statutes of 1994; waiver of delivery of real estate disclosure statement.

Additions or changes indicated by underlining; deletions by asterisks * * *

2

Section 1102.6. Specification of items for disclosure not limitation on other disclosure obligations.

Section 1102.9. Amendment of disclosures.

Section 1102.10. Delivery of disclosures; personal delivery or mail.

Section 1102.11. Escrow agent not deemed agent for purposes of disclosure; exception.

Section 1102.12. Licensed real estate brokers as agents in transaction; delivery of disclosure advising transferee of rights to disclosure; record.

Section 1102.13. Failure to comply with article; transfer not invalidated; damages.


Section 1102.15. Former federal or state ordinance locations; definition.

Section 1102.16. Window security bars and safety release mechanism; disclosure.

Section 1102.17. Repealed.

Article 1.5 was added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.

Cross References

Manufactured homes and mobile homes, task force to propose changes to make Article 1.5 applicable to such housing, see Health and Safety Code § 18160.

Law Review and Journal Commentaries


$1102. Application of article; waiver of requirements

(a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property, or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1102.2, this article shall * * * apply to a resale transaction entered into on or after January 1, * * * 1990, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, which is classified as personal property intended for use as a residence, or mobile home, as defined in Section 18008 of the Health and Safety Code, which is classified as personal property intended for use as a residence.

(c) Any waiver of the requirements of this article is void as against public policy.


Historical and Statutory Notes

1985 Legislation

Section 3 of Stats.1985, c. 1574, provides: “This act shall become operative on January 1, 1987.” For the 1986 amendment included exchange, any other option to purchase and residential stock cooperative, and inserted “or consisting of.” The Assembly Daily Journal for the 1994-95 Regular Session, page 4256, contained the following letter dated Dec. 1, 1995, from Assembly Member Weigel for regard ing A.B.330 (Stats.1986, c. 330): “I am writing to request that this letter be published in the Journal so as to resolve any possible doubt as to the intent regarding my legislation.”

“Earlier this year I authored Assembly Bill 330, Chap ter 335 of the Statutes of 1985, to clarify and codify th
CIVIL CODE

§ 1102.3. Delivery of required written statement from transferee to prospective transferee; indication of compliance with article; disclosures delivered after offer to purchase; time to terminate

The transferee of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

Additions or changes indicated by underline; deletions by asterisks * * *

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a deed of trust or secured by any other instrument carrying a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferees.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to such a judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 2691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 4 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.


Law Revision Commission Comment

1992 Amendment

Subdivision (g) of Section 1102.1 is amended to substitute "judgment" for "deed" to conform to the terminology of the Family Code (CC.4 LaRev.Comm.Reports 1 (1981)).

Historical and Statutory Notes

1955 Legislation

For operative provision of Stats.1955, c. 1574, see note under § 1102.2.

1986 Legislation

The 1986 amendment made subdivisions (b) and (c) applicable to transfers by any foreclosure sale after default or under decree of foreclosure, and inserted "or successor in interest who is" twice in subdivision (d), and included exchanges in subdivision (g).

1992 Legislation

The 1992 amendment made changes to conform with the enumeration of the Family Code by Stats.1992, c. 162.

§ 1102.3. Delivery of required written statement from transferee to prospective transferee; indication of compliance with article; disclosures delivered after offer to purchase; time to terminate

The transferee of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before execution of the contract. For the purpose of this subdivision, "execution" means the making or acceptance of an offer.

Additions or changes indicated by underline; deletions by asterisks * * *
§ 1102.6  CIVIL CODE

With respect to any transfer subject to subdivision (a) or (b), the transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, or any addendum attached thereto or on a separate document.

If any disclosure, or any material amendment of any disclosure, required to be made by this article, is delivered after the execution of an offer to purchase, the transferor shall have three days after delivery in person or five days after delivery by mail, to terminate his or her offer by delivery of a written notice of termination to the transferor or the transferor’s agent.


Historical and Statutory Notes

1965 Legislation

For operative provision of Stats.1965, c. 1574, see note under § 1102.

1966 Legislation

The 1966 amendment inserted "as soon as practicable" in the first sentence and defined "execution" in subd. (a). (b)

§ 1102.4. Errors, inaccuracies, or omissions of information delivered; liability of transferor; delivery of information by public agency; delivery of reports or opinions prepared by experts

(a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional’s license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. * * *

* * * * *

1. Duty to investigate

Relocation management service that sold residential property to purchasers had no common law or statutory duty to investigate former property owners' disclosure statement which failed to mention disturbing noises and connection caused by next door neighbors; sales agreement contained express disclaimer stating that relocation service had no personal knowledge of property and made no representations concerning property, purchaser assumed burden to investigate under agreement, and relocation service had no reason to doubt disclosure statement. Shaprio v. Sutherland (App. 2 Dist. 1998) 76 Cal.Rptr.2d 101, 64 Cal.App.4th 1634.

§ 1102.6. Disclosure form

The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

This disclosure statement concerns the real property situated in the city of __________, county of __________, state of california, described as __________. This statement is a disclosure of the condition of the above described property in compliance with section 1102 of the civil code as originally enacted on __________. It is not a warranty of any kind by the seller(s) or any agent(s) representing any principal(s) in this transaction, and is not a substitute for any inspections or warranties the principal(s) may wish to obtain.

1  COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on the form, where the subject matter is the same:

□ Inspection reports completed pursuant to the contract of sale or receipt for deposit.

□ Additional inspection reports or disclosures:

________________________

SELLER’S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the seller(s) and are not the representations of the agent(s), if any. This information is a disclosure and is not intended to be part of any contract between the buyer and seller.

Seller’s disclosure is not occupying the property.

Additions or changes indicated by underline; deletions by asterisks * * *

Additions or changes indicated by underline; deletions by asterisks * * *
A. The subject property has the items checked below (read across):

- Range
- Dishwasher
- Washer/Dryer Hookups
- Burglar Alarms
- TV Antenna
- Central Heating
- Walk/Window Air Conditioning
- Sprinkler System
- Patio/Decking
- Sauna
- Hot Tub / Locking Safety Cover
- Microwave
- Trash Compactor
- Garbage Disposal
- Satellite Dish
- Central Air Conditioning
- Sprinklers
- Rump Pump
- Built-in Barbecue
- Pool Child Resistant Barriers
- Deck
- Spa
- Locking Safety Covers
- Automatic Garage Door Operators
- Not Attached
- Water Heater: Gas
- Water Heater Anchored
- Pressure or Tankless
- Water Taxidermy
- City Gas Utility
- Window Screens
- Exhaust Fan(s) in: 220 Volt Wiring in: Fireplace(s) in:
- Gas Starter
- Roof: Type:
- Age: (approx.)
- Other

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes__ __No__

If yes, then describe:

(Attach additional sheets if necessary):

B. Are you (Seller) aware of any significant defects or malfunctions in any of the following? __Yes__ __No__

- Interior Walls
- Ceilings
- Floors
- Exterior Walls
- Insulation
- Roof(s)
- Windows
- Doors
- Foundation
- Brick
- Driveways
- Sidewalks
- Walls/Porches
- Electrical Systems
- Plumbing/Sewer/Septic
- Other

Structural Components (Describe):

If any of the above is checked, explain. (Attach additional sheets if necessary):

C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as: Yes __No
2. Features of the property shared in common with adjoining landowners, such as fences, driveways, whose use or responsibility for maintenance may have an effect on the subject property. __Yes__ __No
3. Any encroachments, easements or similar matters that may affect the subject property. __Yes__ __No
4. Room additions, structural modifications, or other alterations or repairs made without necessary permits. __Yes__ __No
5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes. __Yes__ __No
6. Fill (compacted or otherwise) on the property or any portion thereof. __Yes__ __No
7. Any settling from any cause, or subsidence, sliding, or other soil problems. __Yes__ __No

Additions or changes indicated by underline; deletions by asterisks * * *
§ 1102.6

CIVIL CODE

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller
Date...

Buyer...
Date...

Agent (Broker)
Representing Seller
Date...

(Associate Licensee,
or Broker-Signature)

Agent (Broker)
obtaining the Offer
Date...

(Associate Licensee,
or Broker-Signature)

SECTION 1102.3 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THE DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.


1. Enrolled bill contains no II.

Historical and Statutory Notes

1985 Legislation
For operative provision of Stats.1986, c. 157, see note under § 1102.

1986 Legislation
The 1986 Amendment inserted the first sentence in the introductory paragraph of the form; changed the parenthetical matter in item 1 from “for example: geologic hazard zones, zoning restrictions, and structural alterations or additions” to “for example: special study zone and purchase-money liens on residential property”; inserted “substituted” in the parenthetical phrase at end of item 1; included, in II.A, gas supply and gas starter matter; inserted insulation in B; inserted item 11 in II.C and reordered former item 11 to 14 accordingly; removed the second paragraph of III in the beginning paragraph of V; substituted “the seller” for “the principal” in the parenthetical first sentence of II.L; added "THE UNDERSIGNED"; deleted references to an agent in the first paragraph of III; and substituted "Agent (Broker Representing Seller) for "Real Estate Broker" and added "or Broker" after "Associate Licensee" in the signature line in III and in the third line of the acknowledgment in V; inserted a new IV and reordered former IV to V; and added the fourth signature line in V.

1994 Legislation
The 1994 amendment, in I, inserted “inspection reports completed pursuant to the contract of sale or receipt for issuance” and "Additional inspection reports or disclosure report with the the buyer's knowledge, any of the above that are not in operation condition? Yes No. If yes, then describe.

(Attach additional sheets if necessary):

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? Yes No. If yes, check appropriate space(s) below.

- Exterior Walls / Ceilings
- Floors / Exterior Walls / Insulation
- Roof(s) / Windows / Doors
- Foundation / Slab(s) / Driveways / Sidewalks / Walls / Fences / Electrical Systems / Plumbing / Sewers / Septic
- Other Structural Components (Describe):

If any of the above is checked, explain. (Attach additional sheets if necessary).

“*This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 6890) of Part 3 of Division 13 of the Health and Safety Code.”

Additions or changes indicated by underline; deletions by asterisks * * *
§ 1102.6

Section 5 of Stats.1996, c. 925 (A.R.32029), provides:

"Section 1.5 of this bill incorporates amendments to Section 1102.6 of the Civil Code proposed by both this bill [operative July 1, 1997] and AB 330 (Stats.1996, c. 925, which amends and, operative July 1, 1997, repeals and adds § 1102.6). It shall only become operative if (1) both

Cross References

Water heater strapring, certification of earthquake re-
sistance, see Health and Safety Code § 1221.

Law Review and Journal Commentaries

Review of selected 1989 California legislation. 21 Pac.

"As is" provisions 4
Duty to disclose 1
Failure to disclose 2
Legal ramifications 6
Nuisances 7
Ordinances 5
Violations 3

1. Duty to disclose

Residential property owners had common law and stat-
utory obligation in connection with sale of the property to
make full disclosure regarding disturbing noises and com-
mon practice by next door neighbors, assuming such no-
ises and common practice actually occurred and were of suffi-
cient impact to materially affect value or desirability of
their property. Shapiro v. Sutherland (App. 2 Dist. 1998)
76 Cal.Rptr.2d 101, 94 Cal.App.4th 1034.

Residential property owners, through employee’s reloca-
ation program, sold their property to relocation man-
egement service could be liable under statute and common
law to subsequent purchaser for failure to disclose neigh-
borhood noise problem, despite lack of privacy between
owners and purchaser, owners knew or should have
known that relocation service intended to sell property as
quickly as possible and owners had every reason to expect
that their written statutory disclosure statement would be
delivered to a purchaser when such purchaser was located.
Shapiro v. Sutherland (App. 2 Dist. 1998) 76 Cal.
Rptr.2d 101, 94 Cal.App.4th 1034.

Vendor had duty to disclose information materially affection-
ating value or desirability of property. Kovich v. Paseo
Development Co., Real Estate Ass’ns. (App. 5 Dist. 1999) 48
Cal.Rptr.2d 758, 41 Cal.App.4th 863.

Vendor and buyer must reveal all factual matters
bearing upon quality of property being sold which
might be deemed valuable, including that the property was con-
structed on filled land, that structure was in violation of
building codes, or zoning ordinances, that it had been
condemned, or that it was termite ridden. Sovias v.
Hollister (App. 4 Dist. 1999) 43 Cal.Rptr.2d 396, 37 Cal.
App.4th 602, modified on denial of rehearing, review de-
ned.

Although neighborhood noise problems and nuisances
caused by neighbor would be eliminated by compliance
with injunction restricting neighbor’s activities, Civil Code
would require property owners to disclose to prospective
purchasers in real estate transfer disclosure statement that
there were "neighborhood noise problems and other

Additions or changes indicated by underline; deletions by asterisks * * *

§ 1102.6a

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3. Ordinances

Vendors and their brokers, having disclosed that house
was in flood plain, had no further obligation to disclose
that property was subject to restrictions in improvement,
or alteration in event of partial destruction; existence and
ffect of city ordinances regulating rebuilding or improve-
ment of house in flood plain was information as readily
available to purchasers as to vendors and their brokers.
Sweat v. Hollister (App. 4 Dist. 1995) 43 Cal.Rptr.2d 399,
37 Cal.App.4th 603, modified on denial of rehearing, re-
view denied.

6. Legal ramifications

Legal ramifications of factual nature of reality, and
conclusion as to how they may adversely impact value, is
not a "fact" subject to vendors’ disclosure obligation.
Sweat v. Hollister (App. 4 Dist. 1995) 43 Cal.Rptr.2d 399,
37 Cal.App.4th 603, modified on denial of rehearing, re-
view denied.

7. Nuisances

A domestic violence shelter does not constitute a nuis-
ance the existence of which must be disclosed by the
20, 1996.

§ 1102.6a. Disclosure form

(a) On and after July 1, 1990, any city or county may elect to require disclosures on the form set forth in
subsection (b) in addition to those disclosures required by Section 1102.6. However, this section does not
affect or limit the authority of a city or county to require disclosures on a different disclosure form in
connection with transactions subject to this article pursuant to an ordinance adopted prior to July 1, 1990.
Such an ordinance adopted prior to July 1, 1990, may be amended thereafter to revise the disclosure
requirements of the ordinance in the discretion of the city council or county board of supervisors.

(b) Disclosures required pursuant to this section pertaining to the property proposed to be transferred,
shall be set forth in, and shall be made on a copy of, the following disclosure form:

LOCAL OPTION

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

DISCLOSURE STATEMENT CONCERNING THE REAL PROPERTY SITUATED IN THE CITY OF ______________ STATE OF CALIFORNIA, DESCRIBED AS

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH ORDINANCE NO. ______________

OF THE CITY OR COUNTY CODE AS OF ______________ IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY
PRINCIPAL(S) IN THIS TRANSACTION, AND IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I SELLERS INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty,
prospective Buyers may rely on this information in deciding whether and on what terms to purchase the
subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction
to provide a copy of this statement to any person or entity in connection with any actual or anticipated
sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE CITY OR COUNTY OF ______________ AND ARE NOT THE REPRESENTATIONS
OF THE AGENTS). IF ANY, THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

I. __________________
§ 1102.6a  CIVIL CODE

2.

(Example: Adjacent land is zoned for timber production which may be subject to harvest.)

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller ___________________________ Date __________________

BREXER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEPARTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller ___________________________ Date __________________
Buyer ___________________________ Date __________________

Agent (broker) Representing Seller

By ___________________________ Date ________________
(Associate Licensee or Broker-Signature)

Agent (broker) Obtaining the Offer

By ___________________________ Date ________________
(Associate Licensee or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

(c) This section does not preclude the use of addenda to the form specified in subdivision (b) to facilitate the required disclosures. This section does not preclude a city or county from using the disclosure form specified in subdivision (b) for a purpose other than that specified in this section.

(Added by Stats.1989, c. 171, § 2.)

Cross References

Water heater testing, certification of earthquake resistance, see Health and Safety Code § 19211.

§ 1102.6b. Disclosures to prospective purchasers of continuing lien securing special tax levy

(a) This section applies to all transfers of real property for which all of the following apply:

(1) The transfer is subject to this article.

(2) The property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

(3) A notice is not required pursuant to Section 53315.5 of the Government Code.

(4) In addition to other disclosure required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a disclosure notice concerning the special tax as provided for in Section 53340.2 of the Government Code from each local agency which levies a special tax pursuant to the Mello-Roos Community Facilities Act on the property being transferred, and

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shall deliver that notice or those notices to the prospective purchaser, as long as those notices are made available by the local agency.

(c) If a disclosure received pursuant to subdivision (b) has been delivered to the transferee, a seller or her agent is not required to provide additional information concerning, and information in the disclosure shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the transferee regarding the special tax and the district. Notwithstanding subdivision (b), nothing in this section imposes a duty to deliver a special tax or district not actually known to the agents.

(Added by Stats.1992, c. 772 (S.B.1464), § 1.3, operative July 1, 1993.)

Law Review and Journal Commentaries


§ 1102.6c. Natural hazard disclosure statement; properties within hazardous areas

(a) This section shall apply only to any real property that is subject to one or more of the following:

(1) Section 5893.8 of the Government Code.

(2) Section 5893.4 of the Government Code.

(3) Section 51183.5 of the Government Code.

(4) Section 5221.9 of the Public Resources Code.

(5) Section 5264 of the Public Resources Code.

(6) Section 4136 of the Public Resources Code.

(b) In addition to the disclosure required pursuant to Section 1102.6, the transferee of any real property that is subject to this section, or his or her agent, shall deliver to the prospective transferee the following natural hazard disclosure statement:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property:

The seller and his or her agent(s) disclose the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) or principal(s) in this section to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the seller and his or her agent(s) based on their knowledge and maps drawn by the state. This information is a disclosure and is not intended to be part of any contract between the buyer and the seller.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZARDOUS AREAS:

A SPECIAL FLOOD HAZARD AREA (Any type zone 'A' or 'V') designated by the Federal Emergency Management Agency.

Yes ________  No ________  Do not know and information not available from local jurisdiction ________

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 5893.5 of the Government Code.

Yes ________  No ________  Do not know and information not available from local jurisdiction ________

A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes ________  No ________

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4225 of the Public Resources Code. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

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Yes ______ No ______
AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

Yes ______ No ______
A SEISMIC HAZARD ZONE pursuant to Section 2566 of the Public Resources Code.

Yes (Landslide Zone) ______ Yes (Liquefaction Zone) ______
Map not yet released by state ______

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. BUYERS AND SELLERS MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

Seller represents that the information herein is true and correct to the best of the seller's knowledge as of the date signed by the seller.

Signature of Seller ______________________ Date ______________________

Agent represents that the information herein is true and correct to the best of the agent's knowledge as of the date signed by the agent.

Signature of Agent ______________________ Date ______________________

Signature of Agent ______________________ Date ______________________

Buyer represents that he or she has read and understands this document.

Signature of Buyer ______________________ Date ______________________

(c) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. "The seller or seller's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(d) The disclosure required pursuant to this section may be provided by the seller and seller's agent in the Local Option Real Estate Disclosure Statement provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warning that is required by this section.

(e) The disclosure required pursuant to this section is only a disclosure between the seller, the seller's agent, and the buyer, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(f) The specifications of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(g) In any transaction in which a seller has accepted, prior to June 1, 1998, an offer to purchase, the seller, or his or her agent, shall be deemed to have complied with the requirements of subdivision (b) if the seller or agent delivers to the prospective transferee a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.

(Added by Stats.1998, c. 65 (A.B.1195), § 2, eff. June 9, 1998.)

Historical and Statutory Notes

1998 Legislation
Sections 17, 18, 20, and 21 of Stats.1998, c. 65, provide: "Sec. 17. The Legislature finds and declares that state law requires different state departments and agencies to conduct natural hazard mapping and information programs, based on their respective scientific and professional competencies. The Legislature finds and declares that city and county planning agencies sometimes have difficulty using the maps and information produced by state departments and agencies regarding natural hazards because the maps may be at different scales, use different projections, or are otherwise incompatible. The Legislature finds and declares that the lack of compatible maps makes it difficult for city and county planning agencies to make information regarding natural hazards readily available to landowners, their agents, and the public. Therefore, the Legislature finds and declares that there is a need for state officials to coordinate their natural hazard mapping and information programs to make them more effective. The Legislature encourages the Secretary of the Resources Agency to provide coordination and leadership among the state departments and agencies that conduct natural hazard mapping and information programs."

Additions or changes indicated by underline; deletions by asterisks * * *

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"Sec. 18. The provisions of this act shall become operative on June 1, 1998, except that Sections 1, 3, 6, and 10 shall be operative upon the effective date of Chapter 7 of the Statutes of 1997, First Extraordinary Session (Chapter 7 was effective Dec. 13, 1997)."

"Sec. 20. It is the intent of the Legislature that the provisions of this act shall supersede the provisions of Chapter 7 of the Statutes of 1997, First Extraordinary Session, in their entirety and as to that intent, the provisions of that chapter shall not become operative."

"Sec. 21. This act is an urgency act necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect (June 9, 1998). The facts constituting the necessity are:"

"In order to resolve ambiguity regarding the effective date for important real estate disclosures and to ensure that comprehensive disclosures of information regarding risk of natural disaster hazards is made available to prospective homebuyers, it is necessary that this act take effect immediately."

Another § 1102.6c, added by Stats.1997-98, 1st Ex. Sess., c. 7 (A.B.6), § 1, relating to natural hazard disclosure statement, was repealed by Stats.1998, c. 65 (A.B. 1195), § 1. See this section.

Section 14 of Stats.1997-98, 1st Ex. Sess., c. 7 (A.B.6), eff. Dec. 13, 1997, provided:

"Sections 1, 2, 4, 7, 8, 9, 10, 11, and 12 of this act shall become operative on March 1, 1998."

The title of act of Stats.1998, c. 2 (S.B.71), an urgency statute eff. Feb. 28, 1998, provides:

"AN ACT to amend Section 14 of Chapter 7 of the 1997-98 First Extraordinary Session, relating to natural hazards, and declaring the urgency thereof, to take effect immediately."

The first paragraph following the enacting clause of Stats.1997, c. 2 (S.B.71), provides:

"Sec. 14. Sections 1, 2, 4, 7, 8, 9, 10, 11, and 12 of Chapter 7 of the 1997-98 First Extraordinary Session shall become operative on June 1, 1998."
§ 1102.11. Escrow agent not deemed agent for purposes of disclosure; exception

Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the disclosure requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of such an agency shall be governed by the written agreement.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation
For operative provision of Stats.1985, c. 1574, see note under § 1102.

§ 1102.12. Licensed real estate brokers as agents in transaction; delivery of disclosure; advising transferor of rights to disclosure; record

(a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferor, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for delivering the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for delivering disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.


Historical and Statutory Notes

1985 Legislation
For operative provision of Stats.1985, c. 1574, see note under § 1102.

1986 Legislation
The 1986 amendment substituted "delivering disclosures" for "making disclosures" in both sentences of subd. (b).

§ 1102.13. Failure to comply with article; transfer not invalidated; damages

No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

(Added by Stats.1985, c. 1574, § 2, operative Jan. 1, 1987.)

Historical and Statutory Notes

1985 Legislation
For operative provision of Stats.1985, c. 1574, see note under § 1102.

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§ 610.17
Repealed

§ 1105
Fees simple title; presumption

Notes of Decisions

1. In general
Language in deed referring to grant of land is usually sufficient to convey fee simple interest in property. City and County v. Pacific R. R. Co. (App. 1 Dist. 1995) 58 Cal.Rptr.2d 1, 50 Cal.App.4th 987, as modified.

2. Intentions of parties
Fees simple title is presumed to pass by grant of real property unless it appears from grant that lesser estate was intended. Schloss v. Kaye (App. 2 Dist. 1984) 202 Cal.Rptr. 374, 156 Cal.App.3d 949.

3. Easements
City was conveyed fee simple title, and grantees retained only surface use easement, by deed that granted city described real property, reserved to grantees certain rights, including right to use surface for planting, irrigating and harvesting crops, and imposed restrictions on city, such as requiring city to give notice before constructing additional facilities; rights reserved and restrictions imposed did not indicate intent to convey less than fee simple interest. City and County of San Francisco v. Union Pacific R.R. Co. (App. 1 Dist. 1995) 58 Cal.Rptr.2d 1, 50 Cal.App.4th 987, as modified.

Use of phrase "remise, release and quitclaim" in granting clause of deed substantially reflected intention to convey title in its entirety, rather than to convey only an easement. City of Manhattan Beach v. Superior Court (1996) 52 Cal.Rptr.2d 82, 13 Cal.4th 232, 914 P.2d 160, rehearing denied, certiorari denied 117 S.Ct. 511, 136 L.Ed.2d 400.

4. Quitclaim deeds
A quitclaim deed transfers whatever present right or interest grantor has in the property. City of Manhattan Beach v. Superior Court (1996) 52 Cal.Rptr.2d 82, 13 Cal.4th 232, 914 P.2d 160, rehearing denied, certiorari denied 117 S.Ct. 511, 136 L.Ed.2d 400.

5. Statutory presumption that a fee simple title is intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended, applies without distinction to quitclaim deeds. City of Manhattan Beach v. Superior Court (1996) 52 Cal.Rptr.2d 82, 13 Cal.4th 232, 914 P.2d 160, rehearing denied, certiorari denied 117 S.Ct. 511, 136 L.Ed.2d 400.

10. Requisites, form, and sufficiency of grant of fee
As with use of term "quitclaim" in a deed, reference to "remise" and "release" generally signifies an intention of all interest held by grantor. City of Manhattan Beach v. Superior Court (1996) 52 Cal.Rptr.2d 82, 13 Cal.4th 232, 914 P.2d 160, rehearing denied, certiorari denied 117 S.Ct. 511, 136 L.Ed.2d 400.

References in a deed to "land," particularly in conjunction with precise and technical designation of location, generally indicate an intention to transfer entire estate, not just a limited right to pass over the property. City of Manhattan Beach v. Superior Court (1996) 52 Cal.Rptr.2d 82, 13 Cal.4th 232, 914 P.2d 160, rehearing denied, certiorari denied 117 S.Ct. 511, 136 L.Ed.2d 400.

12. Partial cases

Deed conveying property for right-of-way for standard gauge railroad constituted grant of land in fee simple, not merely conveyance of easement for operation of railroad, where deed placed description of property after language granting land, creating greater emphasis on grant of land, and did not contain word "only," or some similar import so as to limit purpose of grant of land, or create condition subsequent to conveyance for conveyance of right of reverter in event that grantee departed from agreed upon use for property, even though consideration in deed was only $1.00 and deed stated that land which was subject of grant ran over and across land of grantor. Machado v. Southern Pacific Transportation Co. (App. 2 Dist. 1991) 284 Cal.Rptr. 660, 233 Cal.App.3d 347.
§ 1106. Subsequently acquired title; passage by operation of law

Notes of Decisions

1. In general
Where vendor's deed granted for sale to purchasers, although vendor, at time of deed, did not hold oil and gas rights, vendor's subsequent reacquisition of oil and gas rights resulted in passage of such rights to purchasers under doctrine of after-acquired title, and vendor's reason for reacquiring oil and gas rights was irrelevant to such passage of oil. Schwemml v. Kaye (App. 2 Dist. 1984) 202 Cal.Rptr. 374, 156 Cal.App.3d 549.

§ 1107. Conclusiveness of grant; exception

Notes of Decisions

2. bona fide purchasers—In general
Good faith encumbrance for value who first records takes its interest in real property free and clear of unrecorded interests. First Fidelity Thrift & Loan Assn. v. Allison Bank (App. 2 Dist. 1998) 71 Cal.Rptr.2d 286, 60 Cal.App.4th 1433, review denied.

§ 1108. Defeated grant upon condition subsequent; reconveyance

Library References


§ 1112. Grant of land bounded by highway

Notes of Decisions

Abandonment 12.5

2. Intent of parties
Evidence supports finding that grantor did not intend to convey any portion of abandoned street in conveyance of 100 feet right-of-way. Although that right-of-way began at south edge of abandoned street, and did not include south half of abandoned street, in addition to the described property; grant of specific number of feet carved out of contiguous lots evidenced grantor's intent that street not be included in conveyance, and evidence indicates grantor placed orange grove to south line of abandoned street and that railroad placed survey stakes beginning at edge of abandoned street to mark four corners of right-of-way. Baker v. Ramirez (App. 5 Dist. 1987) 235 Cal.Rptr. 607, 190 Cal.App.3d 1123.

3. Metes and bounds descriptions
Statutory presumption that owner of land bounded by road or street is presumed to own to center of highway did not apply where grantor used metes and bounds description to convey property. However, metes and bounds description was not determinative of grantor's intent. Benneatte v. Gourdin (App. 4 Dist. 1993) 21 Cal.Rptr.2d 92, 16 Cal.App.4th 1277.

4. Terms
Conveyance of contiguous lots located south of abandoned street included south half of abandoned street, where north half of street had become part of lots located north of street at time of conveyance, south half of street had become part of lots located south of abandoned street, no portion of street vested in railroad at time 100-foot right-of-way was conveyed to railroad by person who owned the lots located north and south of the abandoned street, and no prior deeds specifically conveyed the street. Baker v. Ramirez (App. 5 Dist. 1987) 235 Cal.Rptr. 607, 190 Cal.App.3d 1123.

Alleys
Statute pursuant to which transfer of land bounded by highway passes to person whose property is transferred to soil of highway to center, unless different intent appears from grant, applies to alleys. Benneatte v. Gourdin (App. 4 Dist. 1993) 21 Cal.Rptr.2d 92, 16 Cal.App.4th 1277.

5. Terms
Signatures of Buyer or Lessee

Date

Additions or changes indicated by underlining; deletions by asterisks * * *