



# Frequently Asked Questions Escrows & Disclosure

*We get many questions regarding our policies on escrow disclosure information. This memo will try to answer the questions most frequently asked, and may prove helpful to some questions you may have.*

## Q Who is required to disclose information?

Pursuant to Civil Code § 4525(a) it is the seller who is responsible to disclose all information to the new buyer. The Association is not a party to the transaction. It has no legal obligation to disclose any information to a third party or to a prospective owner (also see the court cases: Ostayan v. Nordhoff, and Kovich v. Paseo Del Mar Homeowners Association), unless specifically authorized in writing by the owner.

## Q What is required to be disclosed?

Only those documents described in Civil Code § 4525, which is generally limited to copies of the governing documents, financial and assessment information, and existing violations regarding the specific residence.

## Q What about filling out a lender's form?

There is no legal requirement that we are aware of for an Association to complete a lender's form. In fact, most management contracts do not provide for signing any document without the Board of Director's prior approval.

Many of the forms submitted could be construed as contracts, or at the very least they are creating a document that a third party (the lender) will rely upon to make the loan.

Signing or completing a third party form could place the Association in a position in which it has no legal obligation to be in, and only creates additional potential liability.

Civil Code § 4525, does **not** require the Association to fill out lender questionnaires.

## Q Will I still get the loan if the Association doesn't fill out the form from the lender?

We have successfully provided documentation and information to more than 17,000 escrows, all without filling out a form provided by a lender.

The lender may prefer to have it as it appears to bind the Association, but in the end it has been our experience that the loan does go through anyway. It isn't the Association that the loan is secured with, it is the value of the property and the borrower's ability to repay the loan.

## Q What about online services that provide this information?

We do not believe there is any legal basis for an online third party company to provide this information, unless they are acting as an Agent for the Association and the Association has provided accurate and up to date information to the online service company. It also adds to the fees charged for providing the documentation.

We consider providing private homeowner information (to a third party to re-sell that Information) as a breach of the duty we owe to the Association, and it is not provided for or allowed under our management agreements.

## Q How competitive are your fees?

Based on our review of several competitor's fees in November 2013 we are typically 25-50% **less** than our competitors (for sending out a complete set of documents).

We work hard to provide prompt, accurate information in a cost effective package.



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