

Basic Due-Diligence

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SYNOPSIS

A basic function of any real estate transaction, audit, or appraisal is to identify the characteristics of the real estate asset. Environmental issues, along with a host of other potential detrimental conditions, can wreck havoc on balance sheets, appraisals and sales transactions. More often, accountants and appraisers, as well as brokers and agents, are being named in disclosure suits. In more extreme situations, professionals are even being criminally indicted for fraud involving nondisclosure issues.

Historically, some professionals have erroneously ignored some disclosure issues altogether; however, these types of issues could have an obvious impact on value. Some professionals tend to cite boilerplate 'assumptions and limiting conditions' stating that they are not environmental, soils or civil engineers, and then attempt to "assume it all away". This notion is simply out-of-step with the realities of both the real estate market as well as Federal and state guidelines. All professionals have a fundamental duty to address "readily obtainable" and "readily observable" issues and clearly inform the client of their level of due diligence within the "scope of work".

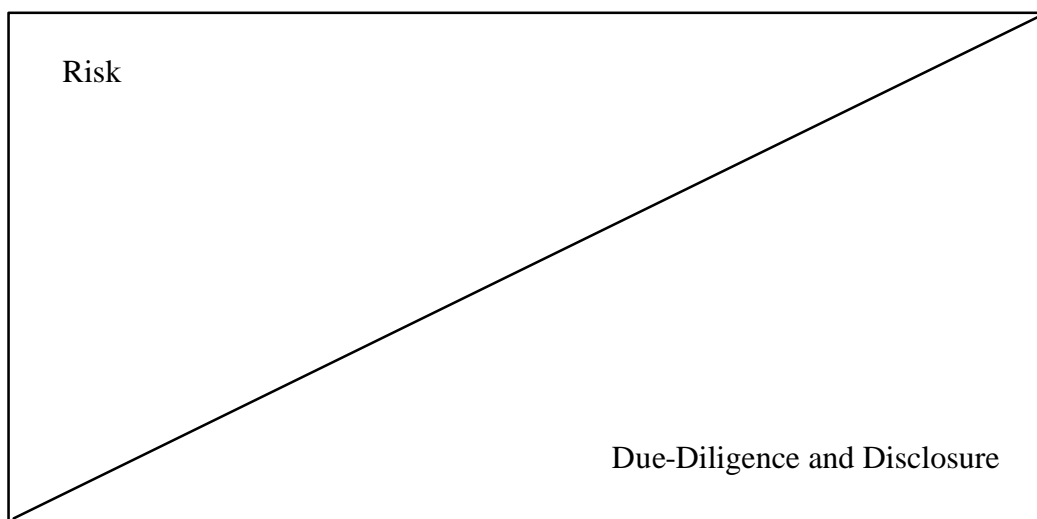
INTRODUCTION

Black's Law Dictionary defines "fraud" as "...concealment of that which should have been disclosed..." The only alternatives to "disclosure" are either "negligence" or "concealment". Accordingly, all professionals have a duty to disclose any adverse conditions that were known, or that they should have known, during the course of their assignments. There are five sources of information for due-diligence and disclosure as to the characteristics of a property, which are (1) personal knowledge, (2) a request for documents, (3) on-site observations, (4) on-line research of public agency databases, and (5) an interview with the property owner or manager.

All conscientious professionals are well informed of these sources of information and tools, and exercise caution before going forward with an assignment without implementing them. In conventional assignments, there may be no alternative but to utilize all available sources of information. At a very minimum, when involved with an assignment with a limited scope of work, a professional must disclose which of these sources of information were or were not implemented. This is a critical issue, as more often real estate professionals are being named, along with the property owners, in lawsuits that allege fraud, negligence or the failure to disclose. With the availability of practical and effective research tools, judges and juries may have little sympathy for professionals who fail to retrieve and disclose readily obtainable information.

When disclosure tools are necessary and available, but are not implemented, it is professional negligence. Unfortunately, some professionals put unrealistic reliance on boilerplate disclaimers, assumptions, or limiting conditions. Even worse, some professionals adopt the confused logic that they increase their risk by addressing disclosure issues, so they choose to avoid them altogether. Any real estate assignment inherently involves the basic duty to provide an accurate description of the real estate asset. In reality, the better the client is informed, the lower the professional's risk, as illustrated with the following continuum:

Professional Liability Continuum



It should be noted that, while the disclosure process is a basic component of any audit, appraisal, or transaction, it does not involve any valuation issues or conclusions.. The disclosure process is simply the notification that an issue exists as a characteristic of a property. Indeed, any Item of Disclosure (ID) may ultimately have a positive, negative or neutral impact on value or the balance sheet. If a concern arises over whether the issue has any impact on value, then an appraiser or accountant may conduct a detrimental condition analysis, following the methodologies set forth by seminars and texts on this topic.

DISCLOSURE LAWS AND REGULATIONS

There are various real estate professionals, namely, accounts, appraisers, attorneys, brokers, agents, and property inspectors. While each profession plays a different role in the real estate industry, each has one issue in common, which is duty to accurately identify the characteristics of a property.

Today, there are a host of governmental agencies and others that are involved with disclosure issues and that impact the various real estate professions. These include the Federal Reserve Board, the United States Environmental Protection Agency (EPA), Environmental Bankers Association (EBA), the National Association of Environmental Risk Auditors (NAERA), The Federal Reserve Board (FDIC), the Appraisal Foundation and its sponsoring members, the American Society for Testing and Materials (ASTM), the Governmental Accounting Standards Board (GASB), Housing and Urban Development (HUD), the Bank for International Settlements (BIS), the International Accounting Standards Board, the Office of Thrift Supervision (OTS), the Securities and Exchange Commission (SEC), the International Association of Assessing Officers (IAAO), the International Valuation Standards Committee (IVSC), the National Council of Real Estate Investment Fiduciaries (NCREIF), the Office of the Comptroller of the Currency, Federal Home Loan Mortgage Corporation (FHLMC), and others. These agencies and associations have a variety of impacts on the various real estate professions.

Legal

Historically, the predominant property disclosure doctrine in the real estate professions was *Caveat Emptor*, or "let the buyer beware". This was the case until

the 1970s and 1980s when the common law doctrine of *Fair and Honest Treatment* became prevalent.

Today, there is a basic fiduciary duty to disclose all material facts. This includes any known facts that can readily be observed by visiting the property, but it does not generally include unknown, latent or hidden defects. Most importantly, it also includes disclosure of information that is readily obtainable from public sources. It appears that disclosure responsibilities have gone full circle from *Caveat Emptor* to *Caveat Vendor*, where the seller and the professionals related to the situation, not just the buyer, must "beware".

The legal profession, like any profession that deals with real estate, has professional liability issues when it comes to advising clients in a real estate matter or transaction. If an attorney is involved in advising on a real estate transaction, then an inherent part of that assignment would be either to provide due diligence into the basic characteristics of the property, or to advise the client to obtain such information from some other professional. The attorney could then review this information for completeness.

The legal profession also often has a quasi-regulatory role, as it "enforces" the compliance of due-diligence and disclosure responsibilities of other professions by filing suit or providing a defense in standard-of-care matters.

Accounting

The auditor has a broad responsibility to ensure that all assets reported on the balance sheet actually exist, that management has the rights to those assets that they purport to have, and that there are no unrecorded claims against them.

Sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit (The Codification of Statements on Auditing Standards, AICPA, AU Section 326).

Since real estate, except that held for investment purposes, is recorded at historical cost, the value of the real estate is generally not an audit issue. However, under FASB Statement 121, long-lived assets "used" by an enterprise must be evaluated for "impairment" and written down to fair value, if impaired.

Additionally, the auditor has the responsibility to consider whether an entity has the ability to continue in business (a "going concern" test). For example, if the entity's main asset is farmland for raising organic vegetables, and there is a high risk of flooding that could wash all the topsoil away, the auditor should consider whether the entity has the ability to continue in business. If they do not believe so, they must say that in their audit opinion. Entities subject to the rules and regulations of the SEC must also adhere to various SEC guidance that applies to environmental matters, particularly SAB No. 92; Regulation S-K Rules 101, 103, and 303; and Financial Reporting Release No. 36.

The Standards of Practice (SOP) 96-1, Appendix C, states in part that management is responsible for financial statements [that] indicate that it is probable that an asset has been impaired or a liability has been incurred at the date of the financial statements, and (b) the amount of the loss can be reasonably estimated. FASB Statement No. 5 also requires certain disclosures about contingencies. Chapters 5 to 7 of the SOP provide guidance on applying FASB Statement No. 5 to matters involving environmental remediation liabilities.

Statement on Auditing Standards (SAS) No. 22, Planning and Supervision, presents guidance on planning the audit of an entity's financial statements. Planning involves the development of an overall strategy for the expected conduct of an audit. As part of the planning process, the auditor should obtain an understanding of the accounting and disclosure requirements for environmental remediation liabilities, which are set forth in chapters 5 to 7 of the SOP. As stated in paragraphs 6 to 8 of SAS No. 22, the auditor should obtain a level of knowledge about matters related to the nature of the entity's business, its organization, and its operating characteristics that will enable the auditor to plan and perform the audit in accordance with GAAS. Examples of such matters that pertain to environmental remediation liabilities include the characteristics of the entity's properties. The SOP also discusses gathering information about landfills, Superfund sites, underground storage tanks and other conditions.

Appraisal

On January 1, 2001 the Uniform Standards of Professional Appraisal Practice (USPAP) expanded for appraisers with the implementation of the new USPAP Advisory Opinion 23, which focuses on Standards Rule.

1-2(e): *"An appraiser must identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal"*

Furthermore, appraisers have other specific disclosure issues, such as the following:

The appraiser must be aware of and report any contamination disclosed by the client or found through the normal observation and research conducted during an appraisal assignment. (USPAP, Advisory Opinion AO-9).

Environmentally related hazards can be a source of high risk and potential liability potential environmental problems exist in a myriad of forms such as asbestos insulation, underground storage tanks, surface improvements, septic tanks systems, and/or oil & gas wells (OTS 1989 Bulletin TB-16).

Certainly, under such guidelines, the standard of care would be to address any readily available environmental public information, such as Superfund sites, leaking underground storage tanks in the area, National Priority List sites (NPL) and so forth. However, other Federal Guidelines spell out a broader disclosure requirement specifically for appraisers:

The appraiser has a responsibility to note in the appraisal report any adverse conditions that were observed during the inspection of the subject property or report any information that he or she became aware of through the normal research involved in performing the appraisal. (Fannie Mae Selling Guide VII, 303 and 405.02)

This Federal guideline is more comprehensive than the previous two, as it expands the duty to disclose any adverse conditions, not just environmental ones. Indeed, the basic Uniform Residential Appraisal Report (URAR) form has a requirement to disclose "adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property." This broad requirement alone requires significant due-diligence.

The International Valuation Standard Committee (IVSC) states that disclosure of the existence of any hazardous or toxic substance that may have an adverse effect on the property's value is included among the general reporting requirements of IVSC Standard 1. Guide Note Number 7 addresses the consideration of hazardous and toxic substances in valuation. The guide notes make clear that these issues can include hazardous or toxic materials that are on site, nearby, or airborne.

Brokerage

In addition to common law, where applicable, there are numerous states that impose strict disclosure laws specifically on brokers, agents and others. This plethora of laws started with Maine and California; however, today, 30 states have specific disclosure laws and it is highly recommended in 17 other states. Additionally, many real estate firms, regardless of the state laws, require a full disclosure to be made by the seller.

There are numerous legal cases involving disclosure issues, which generally involve fraud, intentional concealment or intentional failure to disclose material facts - so-called "passive fraud". Legal cases that illustrate these include the Arkansas case *Fausett & Co v. Bullard*, 229 S.W.2d 490 (Ark. 1950) and the Missouri case *Clark v. Olson*, 726 S.W.2d 718 (Mo.banc 1987) where sellers stated that, "The house is in good condition". In both cases, latent defects were discovered and the buyers filed suit against the sellers.

Two well-known cases that illustrate passive fraud include *Lynn v. Taylor*, 642 P.2d 131 (Kan.App. 1982). In *Lynn*, a previous termite report was not disclosed. In *McRae v. Bolstad*, 646 P.2d 771 (Wash. 1982), the real estate broker failed to disclose sewer and drainage problems that they knew about from prior sales. In both cases, the courts held that the sellers and brokers were liable for their failure to disclose.

Of importance is the fact that real estate professionals may not only be liable for disclosing what they know about a property, but they may also be liable for what they should have known, which is a concept of "strict liability" or "absolute liability". In the Wisconsin case of *Fauerke v. Rozga*, 332 N.W.2d 804 (Wis. 1983), a survey of the property inaccurately stated the land area. The broker was found to be liable for the incorrect survey even though the broker did not know about the inaccuracy because, "The speaker ought to have known or else ought not to have spoken." (Page 809). This issue of strict liability has interesting ramifications, as a simple Internet search may reveal an array of potentially significant IDs. Without obtaining readily available information such as this, a real estate professional may be derelict in their duties. On the other hand, by making a full disclosure, they are likely to avoid problems later. If a new property owner discovers a problem with a property, and subsequently learns that this indeed had been disclosed to them, they may be less prone to litigation. More importantly, conscientious real estate professionals inherently know that

in order to provide the finest services to their clients, they must integrate emerging technologies into their practices.

THE SCOPE OF WORK

Certainly, no professional could know everything and so only reasonable expectations should be made. Certainly, professionals must address any "readily available" or any "readily observable" information. The American Society for Testing and Materials (ASTM) Standards provide some insights into the reasonable level of due-diligence.

ASTM Standard E1527 sets forth the standards for environmental site assessments to identify *recognized environmental liabilities* for Phase I assessments, and this standard has apparent application to the general disclosure requirements of all real estate professionals. The ASTM standard basically states that when that data is "practically reviewable", it should be included in order to meet the standard of care. Information that is "practically reviewable" means that the information is provided by the source in a manner and in a form that upon proper examination yields information relevant to the property without the need for extraordinary analysis of irrelevant data. The information shall be such that the user can review the records in a limited geographical area. Records that cannot be feasibly retrieved by reference to the location of the property, or by the geographical area of the property, are not generally considered "practically reviewable".

Technological advances continuously put new information within the reach of all real estate professionals and the general public alike. The ASTM standard helps to clarify the position that professionals should inform their clients of both "readily observable" on-site conditions and "readily obtainable" public information. In today's "information age", as more information becomes "readily obtainable" on the Internet and elsewhere, the duty to disclose expands accordingly.

Various regulations simply mandate a blanket disclosure of "the characteristics of the property or asset" or to describe "any adverse conditions". If the scope of the assignment is vague, then the client may mistakenly rely on a notion that is incorrect. As stated, there are five basic sources of information available to all real estate professionals in addressing their professional responsibilities. They are (1) personal knowledge, (2) a request for documents, (3) on-site observations, (4) on-line research

of public agency databases, and (5) an interview with the property owner or manager. The first, personal knowledge, is always a required item of disclosure. The other four items depend upon the scope of work.

There are basically two "schools of thought" on the application of the research tools. The first is the "cover all the bases" position, where the professional simply does not feel comfortable, to conscientiously omit any reasonable step that might compromise the quality of his or her work. On the other hand, there is the "limited scope of work" position, where some professionals do feel comfortable with limiting the due-diligence process, as long as that client specifically agrees to it. Regardless of one's position on this issue, it is clear that a professional should never limit the complete due-diligence process, and the application of all readily available sources of information, without the consent of the client. The scope of work should clearly outline the level of due diligence.

SOURCES OF INFORMATION

Without exception, a real estate professional must disclose any material issue that they have from personal knowledge. In addition to any personal knowledge, there are various research tools or techniques that may be used, depending on the scope of the assignment. Each of these tools are discussed individually on the presumption that a complete property description is being made.

Document Request

The disclosure process should include an attempt to obtain relevant third-party research. This could include a request for architectural plans, surveys, Phase I or II environmental studies, soils reports, structural engineering studies, title reports, and so forth. "Readily obtainable" information also includes city or county documents, property profiles, and general plans, particularly if the property is vacant or to be redeveloped. This data generally provides a level of detail that goes well beyond the scope of a basic real estate disclosure, and focuses on an in-depth analysis of specific IDs. While any assignment should include a request for any such reports, only in rare instances would all of these documents be available. These documents could be requested from the property owner, manager, client, public agency or other relevant source. A sample of a document request letter is attached as Exhibit A.

On-Site Observations

The on-site research process involves both on-site property and neighborhood observations. This "observation process" should not be confused with a formal property inspection, which is a much more thorough inspection by a professional property inspector or contractor; however, the on-site observations, unless defined otherwise in the scope of work, should be something more than a casual walk-through or so-called "drive-by". The on-site observations involve any obvious evidence of damages to the roof (as observed from the ground level), ceilings, walls, floors, appliances and general condition of electrical, gas and plumbing. The general operation of heating, air conditioning, water heater units, elevators and other mechanical units could be noted. Additionally, the professional could refer to the 20 Questions as a reference to issues to observe while on site [Exhibit B].

On-Line Research

A key aspect of disclosure and Internet research is the growing field of Geographic Information Systems or GIS. GIS provides real estate professionals with various "layers" of data, which are all plotted on maps on a nationwide basis, but accessible in minutes for a specific property. In fact, a relatively short amount of time spent on the Internet can be equivalent to many hours of manual data collection. These type of data are continuously expanding, and it is the duty of the professional to keep current on such information. Key sources of Internet research are set forth in Exhibit C.

Interview of the Property Owner or Manager

The property owner or manager is an important and obvious source of information when it comes to learning about the characteristics of a property, as they may know information that is not readily observable to the professional. Unfortunately, some professionals literally walk by this resource. Of course, the property owner or manager may not always be available, or they may be unwilling to discuss any issues. On the other hand, they may have important information, just for the asking. In any case, the professional may reduce their liability by *attempting* to interview them, even if they are unwilling, uncooperative or not forthcoming. The interview may be verbal or written, and again the 20 Questions are a useful tool in completing this task. Of course, like any due-diligence issue, the representations of the property owner or manager should be carefully documented.

FURTHER ORGANIZING THE DISCLOSURE AND DUE DILIGENCE PROCESS

Because of the plethora of disclosure information that may be uncovered with the disclosure process, it may be useful to categorize the data in an effort to keep the issues organized.

Class I - General Conditions

The first categories of IDs are the General Conditions, which simply include any characteristic that is applicable to all properties. For example, this could include a description of the owner of title, site area descriptions, access, sales history, and the improvement size.

Class II - Transactional Conditions

The second categories of IDs relate to issues surrounding the actual transaction of the property. As these are transactional in nature, they generally appear on a one-time basis according to the circumstances of that particular transaction. This could include assemblage issues, special motivations, foreclosure, estate sales, options, and so forth.

Class III - Distress Conditions

Distress conditions include properties that are associated with some type of tragedy or negative event, such as a crime scene, arson history, accident, a suicide on the premises, historical fire, or proximity to the residence of sexual offenders. There are a variety of laws and regulations on this specific topic and more than 12 states have laws that address "stigmas" of this type. If known, these issues should be disclosed, as they may have a material impact on the desirability of a property. A well known case in this respect is *Reed v. King*, 145 Cal.App.3d 261, 193 Cal.Rptr.130 (1983), which involved a house where a woman and her children had been murdered. The court found that the real estate professional involved was liable for not disclosing this issue. Subsequent to this ruling, various states have enacted various laws that such issues must be disclosed. Other laws specifically state that a broker may not disclose an AIDS-related death, even if asked. An attorney should be consulted about the disclosure of this specific issue.

A 1994 Federal law, called "Megan's Law", requires the registration of all convicted sex offenders and allows the public access to this information. A 1996 amendment requires states to develop standards for notification. This information is often provided to the public at local sheriff or police departments and, for some states, can be researched on the Internet. Upon completing this research, many people are surprised to learn of the number of offenders that live in a particular neighborhood or community

Class N -- Legal Conditions

Legal obligations such as CC&Rs, bonds, easements, and assessments encompass the third category of IDs. Simply stated, these issues include all legal conditions or obligations of the property owner. This includes zoning, encroachments, contracts, leases, and other legal obligations of the owner or tenant.

Class V - External Conditions

Neighborhood characteristics, termed "externalities" or external conditions, make up the fifth category of IDs. These include airports, nonconforming uses, power lines, rail lines, jails, prisons, dams, and so forth. Again, these external conditions may have a positive (i.e., railways adjoining industrial uses), negative (i.e., noise corridors from international airports over residential use) or neutral consequence. The important matter is that the client is aware of any significant externalities. The GIS mapping technology is particularly useful in determining existing neighborhood issues.

Class VI - Building Conditions

The condition of the improvements is a critical issue. Obviously, a formal property inspection can only be completed by a professional property inspector or licensed contractor. In 1989, only 10 to 20% of all residential sales involved a property inspection. Today, that has increased to 60 to 70%. Obviously, the disclosure of the building conditions is necessary because of growing disclosure laws and liability.

Nonetheless, all real estate professionals have a duty to report any obvious or observable condition in conjunction with their assignment. This means that any known cracking, mold, water damage, construction defect, deferred maintenance, or other obvious condition noted in the attic, ceiling, walls and doors, floor, and any subfloor areas (such as basements or subterranean parking areas) must be disclosed.

Class VII - Site Conditions

As the population expands into areas that were historically considered too risky for development, soils and geotechnical issues have increased in many areas of the country. All real estate professionals have a duty to walk the property site and report any known or obvious site condition to the client. This includes any known ponding, cracking, fill soils, sink holes, and so forth.

Class VIII - Environmental Conditions

Environmental conditions have become more important in the real estate market since Jimmy Carter signed the Superfund Act into law in 1980. Because of the numerous agencies and laws that have emerged, many real estate professionals simply ignore these issues and have added this topic to their boilerplate disclaimers. Although many real estate professionals are not environmental engineers, they still have a duty to report any obvious environmental issues and to review the public governmental databases. These databases contain critical information on leaking underground storage tanks, nuclear power plants, sewage plants, solid waste plants, and so forth. GIS and on-line database retrieval technologies are particularly effective in conducting this category of research.

Asbestos Containing Materials, orACMs, were common prior to 1979. Additionally, any property constructed prior to 1978 may contain leadbased paint, which was commonly used prior to this year. If a property was constructed prior to these years, these issues should be brought to the attention of the client. Of course, whether environmental conditions actually exist can only be determined by a qualified environmental laboratory analysis.

Class IX - Conservation Conditions

As urban areas expand and as populations grow, so do the issues of plant and animal conservation, as well as open space preservation. Any known natural resources, habitat regulations, cultural resources, or other conservation issues should be investigated and reported. This is an especially important issue if the property is vacant or to be redeveloped.

Class X - Natural Conditions

While environmental and conservation conditions have increased in importance over the last several years, natural conditions are as old as civilization itself. Floods continue to be the most destructive of any adverse condition and cause millions of dollars of damages annually. On top of this, wild fire zones, earthquake, and seismic zones and even tidal wave and volcano zones should always be investigated and reported to the client. Again, government databases contain much of this information online.

Conclusion

An accurate property description is critical for all real estate professionals, including accountants, appraisers, attorneys, property inspectors, brokers, and agents. Many of the real estate disclosure laws, as well as accounting and appraisal standards, simply mandate a blanket disclosure of any material issue or condition. As more public information becomes readily available and practical to use, the professional's duty to research and disclose it expands accordingly. To address these ever growing disclosure responsibilities, the professional should conduct both an on-site and neighborhood inspection (reporting "readily observable" issues) and online research (reporting "readily obtainable" issues). This information is descriptive in nature, and as such does not address "value". Items of Disclosure could have a positive, negative, or neutral impact on value, which should be addressed later in the valuation section of an appraisal or the balance sheet of an accounting audit.

During an audit, appraisal or other due-diligence process, the 20 Questions are a useful tool, as they have the attribute of not only organizing the disclosure process itself, but they may also "jog the memory" about certain conditions that might have been otherwise overlooked. Further, today's Internet technology has had a profound impact, as it brings considerable information into the grasp of

both the public and real estate professional alike. The Internet allows the professional to combine satellite imaging and database retrieval with on-site observations to yield a property description that meets ever-expanding ethical duties and obligations, while providing the client with important and often critical information.

Ultimately, the real estate professional has the responsibility to address any "readily observable" and "readily obtainable" information in their assignments. There are five fundamental sources of information for complete due-diligence, which are (1), personal knowledge of the professional, (2) a request for documents, (3) on-site observations, (4) on-line research of public agency databases, and (5) an interview with the property owner or manager. The level of due-diligence should be clearly stated within the report.

Exhibit A

Request for Documents - Sample Letter

ABC Real Estate Professional
1234 Main Street
Anytown, USA 98765

April 16, 2001

Mr. John Smith
4321 Apple Street
Anytown, USA 98765

Re: Request for Documents

Dear Mr. Smith:

Recently I was retained to provide professional services relating to 567 Blue Bird Lane. As part of this assignment, I am requesting copies of any of the following documents or items that you might have related to this property, such as:

- Aerial photographs
- Appraisals
- Architectural plans
- Claims or litigation documents, including any related fire-police reports
- Contracts
- Environmental impact reports
- Land use regulations, i.e., zoning or general plans
- Leases
- Loan, escrow or closing documents
- Phase I or II environmental studies
- Property inspection reports or structural engineering studies
- Site plans
- Site surveys
- Soils or geotechnical reports
- Special studies
- Termite reports
- Title reports
- Other relevant studies or documents relating to the property

Thank you for your attention to this matter. If you have any questions, please feel free to call.

Very truly yours,

Joe Professional

Exhibit B

20 Questions for Real Estate Professionals

General

1. Are the property's general features and issues* identified, i.e., size, history, title, trend, etc?

Transactional

2. Are there transfer issues, i.e., non-arm'slength, foreclosure, option, assemblage, etc?
3. Are there special financing issues, i.e., seller financing, exchange, balloon, wrap, etc?

Distress

4. Are there accident or tragic issues, i.e.; fire, violation, death (non-AIDS), etc?
5. Are there crime issues, i.e., crime scene, burglary, neighbor with criminal record, etc?

Legal

6. Are there legal issues, i.e., lease, easement, CC&R, lien, bond, contract, moratorium, etc?
7. Are there suit or claim issues, i.e., legal claim, insurance claim, title claim, etc?
8. Are there special government issues, i.e., eminent domain, unusual zoning-assessment, etc?

External

9. Are there area land use issues, i.e., airport, jail, school, cemetery, powerline, pipeline, etc?
10. Are there nuisance issues, i.e., noise, odor, view, construction, traffic, etc?

Building

11. Are there building issues, i.e., defect, termite, pest, ADA, code, permit, etc?
12. Are there repair issues, i.e., roof, structural, window, door, utility, appliance, floor, etc?

Site

13. Are there soil issues, i.e., corrosive, expansive, porous, subsidence, slide, creep, etc?
14. Are there geotechnical issues, i.e., grading, cut and fill, compaction, drainage, crack, etc?

Environmental

15. Are there hazardous substance issues, i.e., hydrocarbon, solvent, radioactive, bio, metal, etc?
16. Are there contamination issues, i.e., asbestos ('79), lead paint ('78), spill, leak, septic, etc?
17. Are there environmental agency issues, i.e., Superfund, LUST, landfill, RCRA, NPL, etc?

Conservation

18. Are there natural resource issues, i.e., habitat, open space, wetland, etc?
19. Are there historic or cultural resource issues, i.e., district, NRHP, archeology, etc?

Natural

20. Are there natural hazard issues, i.e., flood, wildfire, earthquake, tornado, storm damage, etc?

*All issues are those known: past, present or proposed.

Source: Real Estate Disclosure Seminar. © Used by permission.

**Exhibit C
On-Line Sources of Disclosure Information**

Items of Disclosure	Home Page	Specific Site Address
Airports	http://www.bts.gov	http://www.bts.gov/oai/
Arenas	http://www.bts.gov	
Cell Towers	http://www.fcc.gov	
Cemeteries	http://www.bts.gov	
Census Information	http://www.fdic.gov	http://www.fdic.gov/geocode/default.htm
CERCLA Sites	http://www.epa.gov	http://epa.gov/superfund/action/law/index.html
Colleges	http://www.ed.gov	http://nces.ed.gov/globallocator/
Conservancy & Recovery Act (RCRA)	http://www.epa.gov	http://www.epa.gov/enviro/html/em/index.html
Convicted Child Molesters	http://www.usatrace.com	http://www.usatrace.com/sex.html
Dams	http://www.usace.army.mil/	http://crrel43.crrel.usace.army.mil:4040/webpub/plsql/catalog_lookup.advanced_search
Earthquake Faults	http://www.usgs.gov	http://earthquake.usgs.gov/eq_regional.html
Fall Zones	http://www.fcc.gov	
Federal Historic Site	http://www.nps.gov	http://www.cr.nps.gov/
Federal Superfund Sites	http://www.epa.gov	http://www.epa.gov/superfund/sites/locate/index.htm
Flood Hazard	http://www.fema.gov	http://www.fema.gov/about/regoff.htm
Hurricanes	http://www.noaa.gov	
Jails & Prisons	http://www.corrections.com	http://www.corrections.com/aca/pubs/index.html
Leaking Underground Storage Tanks (LUST)	http://www.epa.gov	http://www.epa.gov/swcrust1/states/index.htm
Military Airports	http://www.doc.gov	
National Parks	http://www.usgs.gov	
National Priorities List (NPL), Resource	http://www.epa.gov	http://www.epa.gov/superfund/sites/npl/npl.htm
Nuclear Power Plants	http://www.nrc.gov	http://www.nrc.gov/NRC/reactors.html
Pipelines	http://www.usgs.gov	
Places of Worship	http://www.bts.gov	
Power Lines	http://www.usgs.gov	
Radon Zones	http://www.epa.gov	http://www.epa.gov/iaq/radon/zonemap.html
Railways	http://www.doc.gov	
Schools	http://www.nces.ed.gov	http://nces.ed.gov/globallocator/
Solid Waste Sites	http://www.epa.gov	http://www.epa.gov/epaoswer/osw/regions.htm
State Superfund Sites	http://www.epa.gov	http://www.epa.gov/superfund/sites/locate/index.htm
Tidal Wave Zones	http://www.noaa.gov	
Tornado Zones	http://www.noaa.gov	
Transport-Disposal Sites	http://www.epa.gov	
Volcano Zones	http://www.noaa.gov	

Note: While web sites tend to be "stable", specific site addresses are prone to change.
Source: Real Estate Disclosure Seminar