

# REOs & FORECLOSURES

## *Who Discloses What*

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Okay.....so you're ready to submit an offer on a REO property, but you're really unsure of what disclosures you can expect from the bank. In fact, the asset manager has confirmed that the property is being sold "as is". So, does "as is" mean no disclosures for your buyer to review? Not necessarily!

When representing a buyer on a bank-owned property, Realtors need to recognize what disclosures the buyer is entitled to receive from the bank. Yet, this is an area that seems to be confusing to, not only Realtors, but the REO lenders themselves.

As you know, owners of bank-owned properties are not legally obligated to provide you with the same disclosures that you would demand from a traditional seller. But that certainly doesn't mean that the bank is exempt from providing prospective buyers disclosures regarding potential hazards that may affect the property.

In fact, the REO lender is required to disclose certain conditions that may affect the value or desirability of the property. Even though they may be exempt from many obligations, they must still comply with many others. So, even though the property is being sold "as is"; you need to know what to expect in terms of disclosure for your buyer.

To help clarify the matter of disclosures on REO property, The **California Association of Realtors** has made available the **REO Advisory (C.A.R. Form REO 4/08)** that goes along with an offer on a bank-owned property. This form clearly defines disclosure Exemptions and Requirements that pertain to REO property transactions.

Obviously, the bank never lived in the house, so they are exempt from providing the **Transfer Disclosure Statement**. Additionally, REO lenders are exempt from disclosing **Mello-Roos and 1915 Bond Act Assessments**, as well as **Private Transfer Taxes**. And, they are not obligated to provide you and your buyer with the **Residential Environmental Hazards Booklet**.

Included on the list of **EXEMPTIONS** is the **Natural Hazards Disclosure Statement (NHDS)**, but.....**REO lenders are "...not exempt from applicable statutory obligations to disclose earthquake fault zones, seismic hazard zones, state responsibility areas, very high fire hazard severity zones, special flood hazard areas and flood hazard zones..."** Of course, this information is typically included in disclosure reports obtainable from third-party disclosure companies.

But, keep this in mind....whether the bank discloses or not, Realtors should take a moral approach to real estate disclosure. Obviously you want to avoid lawsuits and reduce liability. However, reduced liability is a marginal benefit of disclosure; it shouldn't be the primary motive. The best reason.....it's just the right thing to do! Instead of focusing on liability, you ought to be supporting the best interests of your client. Who is the beneficiary of a disclosure report? It's your buyer! Realtors, who pursue that approach rather than the legalistic one, enjoy rewards. Not only do they build solid reputations for honest, ethical business practice, but they receive repeat business and referrals created by a sound reputation. Whether the bank is or not....you should be practical about disclosure. Remember, you're in the service business. Treat your clients the same way you'd like to be treated. If you approach your dealings from this perspective, you will surely succeed in building a solid business with referral clients and repeat customers for years to come.