

Homebuyers – Read Those Documents!

By K. Michelle Lind as seen in the Arizona Republic

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Most homebuyers understand the importance of reading the purchase contract and the inspection report when buying a home. However, the importance of some of the other documents involved in a home purchase can be less clear. Although it may seem overwhelming, buyers must review all of these documents. Understanding the purpose of the documents can help make the task much easier.

Some documents should be reviewed right away. In fact, you need to read certain documents before you even sign a purchase contract. And, if you have already signed a purchase contract, your right to disapprove of the information provided in these documents will differ depending on whether you have signed a new home contract or an Arizona Association of REALTORS® ("AAR") resale contract.

MLS PRINTOUT:

You might be handed a copy of the Multiple Listing Service ("MLS") printout when looking at a home. The MLS printout is similar to an advertisement and contains a limited description of the home, such as its size and amenities. The information was probably secured from the seller, builder or a governmental agency and could be inaccurate – so you should verify anything important to you. The MLS printout is not a part of the purchase contract. Therefore, even if the printout says that the refrigerator or some other item will be sold with the home, you must ask your REALTOR® to include it in the purchase contract.

PUBLIC REPORT:

Sellers are required to give new homebuyers in a subdivision an Arizona Department of Real Estate Public Report. The purpose of the Public Report is to point out important information about the home and the subdivision that may affect a buyer's decision to purchase. For example, the Public Report may tell you that the home was built on expansive soils or that neighboring properties

may cause a noise or dust problem. Be aware that you must read the Public Report before signing any contract to buy a new home; afterwards is too late.

SELLER'S PROPERTY DISCLOSURE STATEMENT ("SPDS"):

Most sellers in a resale transaction provide a SPDS; most new home sellers do not. The SPDS covers a variety of questions for the seller to answer about the property and its condition. Remember, the SPDS is a disclosure of what the seller actually knows; it is not a representation of every possible defect. You should carefully review the SPDS and verify any important information. Under the AAR resale contract you may give the seller notice of any items of which you reasonably disapprove during the inspection period and ask the seller to repair the items or elect to cancel the contract.

COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs):

CC&Rs are recorded at the county recorders office and generally control certain aspects of the homes within a subdivision. For example, the CC&Rs may control any changes to the home, how many pets can live there, and where you can park your car. By purchasing a home in such a subdivision, the buyer agrees to comply with the CC&Rs. Therefore, it is essential to read and agree to these restrictions before signing a contract to purchase a new home; most new home contracts do not allow a buyer to cancel simply because the buyer did not like the CC&Rs. In a resale transaction using the AAR contract, the buyer generally has five days after receipt of the CC&Rs to cancel the transaction.

OTHER HOMEOWNERS ASSOCIATION ("HOA") DOCUMENTS:

In addition to CC&Rs, HOAs may be governed by articles of incorporation, bylaws, rules and regulations, and often, architectural control standards. If purchasing a resale home in a condominium or planned community, the seller (if fewer than 50 homes in the community) or the HOA (if there are 50 or more homes) must provide the buyer with a disclosure containing a variety of information; the contact person for the association, assessments, the association's financial condition and, if the statement is

furnished by the association, whether the association records reflect any alterations or improvements to the home that violate the CC&Rs. Under the AAR contract, a buyer has five days after receiving this disclosure to provide notice of reasonable disapproval.

TITLE REPORT OR COMMITMENT:

This document contains important information. The title or escrow company providing title insurance will give the buyer a title report or title commitment listing restrictions, easements and liens recorded against the property ("Schedule B Exceptions"). Make sure you receive and review all of the listed documents. Some of these Schedule B Exceptions may affect the use of the property, such as the ability to build an addition or add a swimming pool. In the AAR resale contract, a buyer has five days to disapprove of the title report or commitment. In a new home sale, the buyer will not likely have such a right.

Buying a home involves a huge financial and emotional commitment. Take the time to get all the information available about a home by reading these and other important home buying documents. And, if you are unsure about a document you receive when buying a home, ask your REALTOR® for guidance.

Spanish version

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*K. Michelle Lind is General Counsel/Assistant CEO to the Arizona Association of REALTORS® (AAR). She serves as the primary legal advisor to the association. Michelle oversees AAR's Risk Management Committee, which includes professional standards administration for twenty of the state's local REALTOR® associations, and the development of standard real estate forms. She is the author of Arizona Real Estate: A Professional's Guide to Law & Practice and a regular contributor to the Arizona REALTOR® and the Arizona Journal of Real Estate & Business. **Please note that this article is of a general nature and may not be updated or revised for accuracy as statutory or case law changes following the date of first publication. Further, this article reflects only the opinion of the author, is***

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