

Actual results may vary. Buyer and Seller should consult with their respective attorneys. Buyer or seller, provided that Broker has made a disclosure and the principals have given their consent. This multiple representation can occur through an individual licensed as a broker or through different associate licensees acting for the Broker. The associate licensees may be working out of the same or different office locations.

Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

Buyer and Seller understand that Broker may represent more than one buyer or seller and even both buyer and seller on the same transaction.

If Seller is represented by Broker, Seller acknowledges that Broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both Seller and Buyer in that transaction.

If Buyer is represented by Broker, Buyer acknowledges that Broker may represent seller's of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both Buyer and Seller with regard to that property.

In the event of dual agency, Seller and Buyer agree that: (a) Broker, without the prior written consent of the Buyer, will not disclose to Seller that the Buyer is willing to pay a price greater than the offered price; (b) Broker, without the prior written consent of the Seller, will not disclose to the Buyer that Seller is willing to sell property at a price less than the listing price and (c) other than as set forth in (a) and (b) above, a Dual Agent is obligated to disclose known facts materially affecting the value or desirability of the property to both parties.

NOW CONFIDENTIALITY OF OFFERS: Buyer is advised that Seller or Listing Agent may disclose the existence, terms, or conditions of Buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the Listing Agent's marketing strategy and the instructions of the Seller.

Seller and/or Buyer acknowledges reading and understanding this Disclosure and Consent for Representation of More Than One Buyer or Seller and agrees to the dual agency possibility disclosed.

Seller/Buyer: John & Mary Shirley Kell Patterson Date: 10.27.09

Seller/Buyer: _____ Date: _____

Real Estate Broker (Firm): Coldwell Banker Date: 10/27/09

By: Anna Gandemana

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SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent as a sub-agent of that agent has the following affirmative obligations to the Seller:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller. To the Buyer and the Seller.

- Diligent exercise of reasonable skill and care in performance of the agent's duties.
- Duty of honest and fair dealing and good faith.
- Duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations to the Buyer:

- Fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer. To the Buyer and the Seller.
- Diligent exercise of reasonable skill and care in performance of the agent's duties.
- Duty of honest and fair dealing and good faith.
- Duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2076.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE)

BUYER/SELLER *Buyer: Cindy Ann Partin* Date *10.27.09* Time *2:15 AM/PM*

BUYER/SELLER

AGENT *Coldwell Banker*

(Please Print)

Date *10.27.09* Time *2:15 AM/PM*
 by *Anna Gandomano* Date *10/27/09*
 (Associate Licensee or Show Signature)

THIS FORM SHALL BE PROVIDED AND ACKNOWLEDGED AS FOLLOWS (CIVIL CODE § 2079.14):

- When the listing brokerage company also represents Buyer, the Listing Agent shall have one AD form signed by Seller and one signed by Buyer.
- When Buyer and Seller are represented by different brokerage companies, the Listing Agent shall have one AD form signed by Seller and the Buyer's Agent shall have one AD form signed by Buyer and one AD form signed by Seller.

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Reviewed by _____ Date _____





REALTOR®

**PRDS® ADVISORY REGARDING MARKET CONDITIONS,
MULTIPLE AND NON-CONTINGENT OFFERS,
FINANCING/APPRaisal AND PROPERTY CONDITION**

Revised 01/2014 NAR Form Only 508



The residential real estate market is, and historically has been, cyclical. Bay Area housing values have experienced repeated up-turns -- with extraordinary price increases in some cases -- and down-turns, where home sale prices descend, in some cases dramatically. Factors contributing to these home price swings include national and local economic conditions and business cycles, and especially the significant and sometimes immediate influence that business advances and declines related to high-tech, bio-tech and other business enterprises exert on the housing sector. Beyond that, the fact that Bay Area housing demand often exceeds housing supply furnishes another important explanation for occasionally intense competition for limited housing stock. Your real estate agent cannot predict market swings, and whether and to what extent real property purchased today will, in the future, appreciate or depreciate in value. In view of these real estate price dynamics, the parties to the Purchase Contract herein are advised of the following:

1. **Multiple Offers and Fair Market Value:** When it comes to residential housing offered for sale, this persistent imbalance of inventory and demand can give rise to "multiple offer" situations, wherein two or more sets of prospective buyers compete -- sometimes fiercely -- for the same property. Vigorous competition can drive a sales price well above asking price and, for that matter, substantially above a figure that would realistically be considered "fair market value". One peril for the Buyer in such a setting is that an artificially high purchase price can compound the economic consequences of a Buyer's need to sell the property before it has an opportunity to appreciate (if it will at all) to a level reflecting the actual purchase price, thus resulting in the possibility of a net loss to Buyer at time of sale.
 2. **Financing and Appraisal Issues and Risks:** Another peril for a Buyer who has "won" such a bidding competition can include inability or difficulty obtaining financing from a lender whose objectively derived appraisal cannot support the actual price paid. A lender's decision to approve of a Buyer as borrower takes into account an evaluation both of Buyer's creditworthiness, i.e., the prospects for the Buyer's ability to continuously make mortgage payments and appraisal, i.e., an objective fair market valuation of the property. Where the subject property is appraised at a price considerably below the actual purchase price, the lender will typically decline to make the loan unless the Buyer is willing to provide enough increased down payment to cover the difference between the loan amount applied for and the amount the lender (once in receipt of the appraisal) is ultimately willing to lend. This increased down payment requirement can be substantial and, depending on financing contingency status, Buyer's inability to bring in that increased amount may expose Buyer to forfeiture of his deposit, or worse. (It bears noting that, where the Liquidated Damages clause is not made a part of the purchase contract, the economic exposure to a defaulting Buyer has no limit or "cap".)
- Another financing-related risk arises where a Buyer with a loan contingency is putting such a substantial amount of money down that, even with an appraisal far below the Buyer's purchase price, the lender is still willing to lend on strength of an auspicious loan-to-value ratio. The "risk," therefore, lies in Buyer's contractual obligation to proceed with removal of the financing contingency (even though the property didn't "appraise out" and Buyer feels he paid too much for the property), all because the lender is indeed willing to lend.

3. **Non-contingent Offers: Associated Risks.** A contingency is a contractual condition to a Buyer's approval of the physical condition of the Property based upon which the Buyer, acting in good faith, might elect to not proceed with the transaction and can recover, without penalty or sanction, Buyer's deposit. Financing, property condition, insurance, title and other contingencies stand as important protections to a Buyer. Accordingly, a Buyer whose offer is fully "non-contingent" - wherein all contingencies are waived - foregoes important protections. Among these is the right to cancel the contract based upon an inability to obtain financing or upon a post-acceptance discovery of serious physical defects and other problems. It is important to note that the discovery during escrow of previously unknown defects does not (absent fraud) create for the non-contingent Buyer a new right to terminate the contract.

Inherent in Buyer's decision of what price and terms to include in an offer is (on one end of the spectrum) the risk that a non-contingent contract, while attractive to a Seller, exposes the Buyer to the risk of having to either go through with the purchase of a possibly defective property or withdraw and suffer the economic consequences of default. At the other end of the spectrum is the risk that the Seller will reject Buyer's contingent-laden offer in favor of a competing offer with few or no contingencies.

Notwithstanding these important concerns, a Buyer who is determined to prevail as successful bidder may elect to assume these risks of non-contingency, preferring instead to generate an offer sufficiently attractive to a Seller that the "risk" of being outbid by a competing offer is correspondingly reduced. **Each buyer must, upon careful deliberation, decide how much of which risk he or she is willing to assume.** Risk factors vary in each transaction and must be thoughtfully considered in each case. For example, where a non-contingent buyer has access to a seller-provided pre-sale disclosure "package" containing essential inspection reports produced by reliable, reputable professionals, the risk to that buyer regarding those issues is far lower than it would be where no inspections have been undertaken at all. The latter involves maximum risk, and is strongly discouraged by Broker.

4. **Property Condition:** Irrespective of prevailing market conditions, Buyer is encouraged to engage property inspection professionals to examine the subject property, particularly where the Seller has not obtained and delivered to Buyer (prior to Buyer's submission of an offer) a pre-sale property inspection report from a professional and disinterested property inspection expert. As stated above, a decision by Buyer to waive contingencies relating to property condition should be made only upon careful deliberation. Buyer should also review in advance such existing disclosures, inspection reports, building permit file records and other materials that could provide information and insights as to condition, value and desirability. Buyer should carefully review Seller and agent information provided in the Transfer Disclosure Statement; and any additional disclosure (e.g., the PRDS Supplemental Seller Checklist) information. Additionally, where the contract provides for a pre-close of escrow "Walk-Through" (and whether the transaction is or is not "non-contingent"), Buyer should avail himself of that right and opportunity.

Date: _____ Date: _____

Buyer: _____ Seller: _____

Buyer: _____ Seller: _____