
Section I

GENERAL INFORMATION

A. Introduction

The DRE has a legal mandate via the Subdivided Lands Law to regulate subdivision offerings. The purpose of the law is to protect the consumer from misrepresentation, deceit, and fraud in the public sale or lease of subdivisions.

The means by which this is accomplished is the subdivision public report process. Subdivisions which fall under DRE jurisdiction may not be offered for sale or lease until a conditional or final public report is obtained. Public reports are issued only if the proposed subdivision meets the requirements specified in the Subdivided Lands Law. These requirements, known as affirmative standards, are further defined by the Regulations of the Real Estate Commissioner, Subdivision Map Act and Business and Professions Code.

The public report has a second function besides ensuring compliance with affirmative standards. The public report discloses significant consumer information about the particular subdivision for which it is issued.

All prospective purchasers must be given a copy of the public report and must be given a chance to read it before any binding contract is signed. The disclosure function of the public report is no less important than the affirmative standard function because it can alert consumers to any negative aspects of a particular offering. There is flexibility as to what can be disclosed, whereas the affirmative standards are statutory.

B. Affirmative Standards

Affirmative standards deal with two major aspects of the proposed subdivision offerings: suitability for intended use and fair dealing.

Suitability for intended use – The Subdivided Lands Law specifies that a public report will be denied if the offering is unsuitable in any respect for the use proposed by the subdivider.

The suitability test is, of course, paramount in residential offerings. The applicant must at least show that there is vehicular access, available water for domestic use and sewage disposal. If suitability cannot be demonstrated, the offering will be treated as raw land, which will prohibit the owner from making claims to any particular use. (See application questions 11, 14 and 19.)

Fair dealing regarding the sale or lease of the offering – The second major area of protection under affirmative standards is assuring that the consumer will get what is bargained for. That is, the deposit money will be secure, the off-site improvements described by the subdivider (roads, sewers, etc.) will be completed and upon consummation of the transaction, clear title will be conveyed. Plus, other important aspects of the sale or lease will be assured.

C. Disclosure

By law, certain information must be disclosed in the public report.. DRE guidelines are specific on certain other disclosures that should always be included in the public report. Beyond that, it is staff's responsibility to determine what facts should be disclosed, based on particulars of the file. Generally, the public report discloses:

- Name of applicant
- Location and size of the project
- Map and CC&R recordation data
- Purchase money handling

- Conditions of sale
- Assessments, if any
- Transfer fees
- Taxes
- Utility servers
- Water source
- School information
- Sewage disposal
- Unusual adjacent uses and zoning
- Airport Influence Area
- Subdivisions within the San Francisco Bay Conservation And Development Commission jurisdiction
- Notice of Right to Farm
- Hazards, if any
- Unusual title conditions
- Location of soils information
- Common interest project management
- Common interest project maintenance and operational expenses
- Any unusual costs that the consumer will have to bear.
- Unusual restrictions or conditions imposed upon buyers.
- Unusual easements, rights of way, or set backs.
- Any special permits that may be needed in order to build houses, sewer systems, etc.
- Any unusual or potentially harmful financial or conveyance arrangements.
- Anything else that would assist the potential purchaser in making an informed choice.