



C.A.R.
LEGAL
TOOLS

Disclosure of Death

In a Real Estate Property

Disclosure Forms

Transfer Disclosure
Statement
(C.A.R. Form TDS)

Seller Property
Questionnaire
(C.A.R. Form SPQ)

Exempt Seller
Disclosure
(C.A.R. Form ESD)

Sellers are required to disclose all *material facts* relating to the value and desirability of the property they are selling.

Seller Property Questionnaire and Exempt Seller Disclosure Forms



ARE YOU (SELLER) AWARE OF...

Within the last 3 years, the death of an occupant of the Property upon the Property?

If the answer is “yes”, seller must answer truthfully and disclose *both* the occurrence and the manner of death.

EXCEPTION:

If the death was HIV or AIDS related, then it *must not* be disclosed!

Key Elements to the Disclosure Requirement



Deceased died on the property



Death occurred within the past three years



Deceased was an occupant of the property

Disclosure Requirement Applies to ALL Types of:

TRANSACTIONS

Residential



Commercial



Vacant Land



SELLERS

Individuals



Entities



Trusts/Probate





Non-Disclosure

Generally, if the death occurred more than 3 years ago, or was off the property, or the person who died was not an occupant, then the death does not need to be disclosed.

(See California Civil Code Section 1710.2(a))

With some exceptions...

Notorious or Stigmatized

If the death was particularly notorious and/or has stigmatized the property, it may be a material fact that affects the value and desirability of the property.

Even if not legally *required* to disclose the death, a seller may still *want* to:

Does everyone in the neighborhood know?



Answer Inquiries Truthfully

If asked, a seller or listing agent should always answer truthfully about the condition of the property, including any death that has occurred on the property.

EXCEPTION:

If the death was related to HIV/AIDS, to avoid fair housing violations, a seller or agent should? Or may? decline to answer even if asked.



ADDITIONAL RESOURCES



Legal Q&A – Disclosure of Death and AIDS

<http://www.car.org/riskmanagement/qa/disclosure-folder/disclosure-death-aids/>



Quick Guide

Disclosing Death on the Property



Summary Disclosure Chart

<http://www.car.org/riskmanagement/disclosure-charts/summary-disclosure-chart/>



Video

Disclosing Death on the Property