

CHANGES TO THE RPA AND HOW THEY WILL AFFECT YOUR ESCROW

Homeowner's Association Documents

The revised Residential Purchase Agreement contains new provisions regarding the payment of fees for preparing Homeowner's Association documents. Here are some of the things you need to know:

Paragraph 7D now states that the seller is to pay all the Homeowner's Association (HOA) fees for preparing documents required to be delivered by Civil Code Section 4525. This is statutorily required of the seller; therefore the buyer cannot pay for these. The buyer may pay for other documents that are not required by the statute.

The following documents are required to be provided by the seller to the buyer according to Civil Code Section 4525:

- » A copy of all Governing Documents, including Articles of Incorporation and Bylaws, or a statement in writing that the HOA is not incorporated.
- » Any restrictions stated in the Governing Documents such as the Covenants, Conditions and Restrictions (CC&R's).
- » A copy of the HOA's budget reports, financial statements, reserve studies and insurance documents most-recently distributed.
- » A statement in writing as to the amount of the HOA's regular fees and special assessments, as well as information on any unpaid fees, late charges, fines, penalties, etc. levied upon the seller's interest.
- » A copy or a summary of the notice of any violations of the Governing Documents that are unresolved against the owner of the property.
- » A copy of any notification of pending or settled litigation with regard to defects/issues between the association and the builder, and the initial list of defects.

- » Notification of any pending change in the current regular or special assessments.
- » A statement regarding any restrictions in the Governing Documents limiting occupancy based on age, or that prohibit the rental or leasing of the property.
- » If requested by the purchaser, a copy of the previous 12 months of HOA board meeting minutes.

Any other requested documents may be paid for by the buyer or seller as determined by the RPA.

Paragraph 10F now states that the party required to pay for the HOA documents must deposit funds into escrow or directly to the HOA to pay for same. The deposit must be made within 3 days (*or a specified number of days as determined in the RPA*).

Escrow will contact the management company for the HOA to determine their fees, costs and acceptable method of payment. In order to help everyone abide by the time frames required, we will need the complete information on the HOA's and their management company information when the escrow is opened. We have a form that we can provide to you to get the information when you take the listing. This will give the seller ample time to collect the information in anticipation of opening escrow.

We strive to obtain HOA documents as quickly as possible in order to give the buyer ample time to review them before the expiration of the contingency period. Giving us this information early in the process will help us help you.



FirstCaliforniaEscrow Count on Our Excellence®

This material is not intended to be relied upon as a statement of the law, and is not to be construed as legal, tax or investment advice. You are encouraged to consult your legal, tax or investment professional for specific advice. The material is meant for general illustration and/or informational purposes only. Although the information has been gathered from sources believed to be reliable, no representation is made as to its accuracy.