

Seller's Property Disclosure Checklist

This Checklist is intended to assist a Seller in the preparation of the Seller's Property Disclosure Statement, and should be viewed as providing guidance regarding the types of components, fixtures, and included items in the sale. Other aspects pertaining to the property might also be added to this list.

The intent of the Seller's Property Disclosure is for the Seller, presumed to be the most knowledgeable and informed party concerning the property, to disclose all Adverse Material Facts affecting the property. ADVERSE MATERIAL FACTS ARE THOSE WHICH MATERIALLY AFFECT THE VALUE, THE STRUCTURAL INTEGRITY, OR PRESENT A DOCUMENTABLE HEALTH RISK TO OCCUPANTS OF THE PROPERTY. The Seller should consider every component, fixture, or item of personal property to be included in the sale, and note the existence and nature of any Adverse Material Fact concerning any item.

The Seller should understand that the information provided on the Disclosure Statement is intended to be provided to the prospective purchasers of the property, and that any inaccurate or false information may form the basis for a claim by a Buyer against the Seller, as may the failure to include Adverse Material Facts which are known to the Seller. If the Seller readily recognizes or knows of anything that could be considered an Adverse Material Fact, or if anything is absent that raises concern, it should be noted on the Disclosure Statement. This Disclosure Statement is to be completed by the Seller personally, and not the Seller's Broker or Agent.

Real Property:

The following components related to real property should be evaluated by the Seller to ascertain any Adverse Material Facts:

- **Drainage or Flooding**– Are there any drainage issues which may damage structures or pose a personal health problem? Poor drainage or grading problems?
- **Foundation** – Are there any cracks or settling in the foundation, or is a portion of the structure without a foundation?
- **Roof** – Are there any structural problems with the roof, any leakage, or other deterioration?
- **Basement** – Are there any signs of leakage or flooding in the basement, or other signs of moisture? Are there any fuel tanks in the basement?
- **Electrical system** – Are any problems evident with the electrical system, such as fuses or breakers that tend to trip? Do any parts of the electrical system need to be rewired?
- **Plumbing/Sewer/Septic** – Any leaks or plugged lines? Other problem areas? If a drainfield is present, does it have problems?
- **Public Sewer System** – Does the public sewer ever clog or back up?

- **Heating System** – Are there any known problems with the heating system, such as gas leaks, worn out components?
- **Insulation** – Are there any areas that do not have insulation, vapor barriers? Does any of the insulation contain formaldehyde or asbestos?
- **Private Well and Water Rights** – Does the well provide adequate water? Is the quality good? Has it been tested? If so, what were the results? Are water rights recorded?
- **Woodstoves and Fireplaces** – Are the chimneys safe? Have they been recently cleaned? Does any smoke come into to the house?
- **Access** – If the property is not fronting on a public street, is access guaranteed? How? Private Street? Recorded Easement?
- **Common Walls** – Are there any common elements shared with an adjoining property that may have an effect on the use and enjoyment of the property?
- **Encroachments** – Are there any structural encroachments either extending into this property from an adjoining property, or encroaching from this property onto an adjoining property? Are there any driveways, easements, or other features which encroach onto this property?
- **Additions to Structure** – Are there any additions to any of the structures which were added onto the original structure? Do they meet code?
- **Landfill** – Are any portions of the property filled areas, compacted or otherwise?
- **Settling** – Are there any portions of the property that are prone to settling, subsidence, or slippage?
- **Major Damage** – Has there ever been major damage to the structures due to fire, flooding, earthquake, land slides, et cetera?
- **Zoning Violations** – Is there any aspect related to the property which constitutes a violation of local zoning laws?
- **Neighborhood Nuisances** – Are there any noise, smoke, or dust problems in the neighborhood which would constitute a nuisance?
- **Homeowners Association** – Are there any unsatisfied obligations, dues, liens, lawsuits, or other issues related to the Homeowners Association affecting this property?
- **Common Areas and Amenities** – Are there any problem issues related to the common areas and amenities related to this property?
- **Community Water & Sewer Systems and Streets** – Are there any unsatisfied obligations, dues, assessments, liens, lawsuits, or other issues related to community utilities and/or streets serving this property?
- **Notices of Abatement** – Are there any Notices of Abatement or citations against this property?
- **Lawsuits** – Do any lawsuits or judgments exist against the Seller which may affect this property?
- **Refuse Landfills** – Are there any refuse landfills in the vicinity of this property?
- **Zoning** – Are there any zoning matters, pending or adopted, that adversely affect this property?

- **Proposed Rate or Fee Increases** – Are any rates or fees affecting this property proposed for an increase?
- **Asbestos** – Does any know asbestos exist on this property or in any of the structures?
- **Floodplain or Floodway** – Is this property in a floodplain or floodway?
- **Radon** – Is radon an issue with this property? Has testing been accomplished? If so, attach report and discuss mitigation measures that have been taken.
- **Lead Based Paint** – Has the home been tested for lead-based paint? If so, attach report and discuss mitigation measures that have been taken.
- **Underground Storage Tanks** – Do any underground petroleum tanks exist on the property?

In addition to these listed items, any other Adverse Material Facts known to the Seller about the real property must be disclosed. Disclosure informs the Buyer of precisely what they are and are not acquiring, and such disclosures may serve to protect the Seller in the long run.

Personal Property:

The sale of this property may include personal property, such as appliances, furniture, et cetera. Only those included items need be addressed in the Seller's Disclosure Statement. It would be proper to address each item specifically, and briefly state its approximate age and condition, i.e. works good, ten years old, some wear.

At a minimum, those items of personal property with known problems or defects should be specifically addressed, explaining the full extent of the problem.

Rental or leased personal property, such as Water Softeners, TV Satellite Dish & Controls, or other rented or leased items should include a brief explanation of the terms and conditions associated with the Buyer retaining them, i.e. applying for an signing an new rental agreement, et cetera.

Again, the Seller is the in-house expert on the property, and has a duty and an obligation to disclose any Adverse Material Fact as defined in Montana law which may influence the Buyer to purchase or not purchase the property. Because the Seller is the presumed most knowledgeable party in this regard involved in the transaction, the Seller's best protection from litigation is to disclose, disclose, disclose. Even seemingly petty issues can bite back.

Remember, only the Seller can complete this Disclosure Statement, not the Seller's Broker or Agent.