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## A RAVID Or An AVID Is Not A Marketing Device

By David Hamerslough

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The use of RAVIDs and AVIDs to memorialize and disclose those conditions (i.e., red flags) that might impact the value or desirability of a property is a practice that has been around for some time. Part of the reason for using these forms is to provide licensees with a checklist or a set of guidelines for conducting their visual inspections and to supply more space for disclosure of red flags than what is provided in Sections 3 and 4 of the Transfer Disclosure Statement.

The TDS, SSC, SPQ, RAVID, and AVID are often the focal point of litigation involving the condition of the property and claims against the seller and/or real estate licensees alleging a failure to disclose an adverse condition impacting the property. In my practice, I litigate these types of claims; therefore, I review these disclosure documents on a regular basis. This article sets forth some of my observations regarding the usage of the RAVID and AVID forms.

Observation #1: these forms are not intended to restate features or characteristics of the property that are otherwise contained in the MLS, visual tours, or printed flyers or brochures.

Observation #2: these forms provide the opportunity to document that you completed a visual inspection of the reasonably accessible areas and that adverse conditions or red flags impacting the value or desirability of the property have been disclosed to the parties. Using the forms to do so eliminates any doubt that you have met these obligations.

Observation #3: it's best to ignore the old adage that if you don't have something nice to say about a property, don't say anything at all. Nearly every property will have some condition or red flag that may

impact its value or desirability. Remember that the forms are intended to put potential buyers on notice of these issues, even if that may be contrary to what the seller believes regarding the condition of the property.

Observation #4: it does no harm to disclose open and obvious conditions or accurately restate the adverse conditions identified in the seller's disclosures or in inspection reports. It is usually easier to prove that you met your visual inspection obligations by providing your own documentation of same rather than by relying on another individual's documentation.

Observation #5: use these forms to confirm recommendations or advice given by you to your client with respect to adverse conditions or red flags and/or to accurately restate the advice or recommendations given by inspectors regarding any of the issues you've identified in these forms. If you do so, it is a good practice to identify whether the information, advice, or recommendation is your own or that of another person, and if you already know that your client is not going to follow any advice or recommendation provided, confirm that they are not going to do so and identify any reason they have given you for not going to do so.

Observation #6: try to make sure that the forms are signed and dated by all parties. Proving when you completed your visual inspection and when it was presented to the other parties in the transaction eliminates any doubt or confusion on this issue.

Observation #7: don't be afraid to attach additional pages to the RAVID or AVID or to attach photographs illustrating adverse conditions or red flags. If you do so, the best practice is to make sure that these additional pages/photographs are signed and dated by all parties to confirm their timely creation and receipt.

Observation #8: complete all applicable sections of the disclosure form and try and ensure that your observations and disclosures are contained within the appropriate and applicable portion of the form. While this observation may seem obvious, it is often not only what the licensee states in these forms that is analyzed by the adverse attorney but also the completeness and clarity with which the statements are made.

The foregoing observations are general in nature and may not apply to every visual inspection. Specific issues or questions should be discussed with your manager or broker.



Laurie and I had two very challenging real estate rights issues that we were advised were going to be difficult to prevail on. The RHRC team engaged with us and helped us understand our rights and prevailing position. RHRC were thoughtful advocates for us from the beginning to conclusion of our cases. We feel fortunate to know we will always be able to call on the firm in the future and that they are our legal counsel.

*Albert "Rocky" and Laurie Pimental, President of Global Markets and Customers, Seagate Technology*

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*The California law firm of Rossi, Hamerslough, Reischl & Chuck provides legal representation to real estate and business clients throughout Silicon Valley and the San Francisco Bay Area including San Francisco, San Jose, Palo Alto, Los Altos, Los Gatos, Menlo Park, Gilroy, Hollister, Santa Cruz, Santa Clara, Aptos, Monterey, Carmel, Salinas, Morgan Hill, Saratoga, San Francisco County, Santa Clara County, Santa Cruz County, San Benito County, Alameda County, San Mateo County, Monterey County, and Contra Costa County.*

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