



# REAL ESTATE TRANSFER DISCLOSURE STATEMENT

(CALIFORNIA CIVIL CODE § 1102, ET SEQ.)

(C.A.R. Form TDS, Revised 12/21)

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF Durham, COUNTY OF Butte, STATE OF CALIFORNIA, DESCRIBED AS 9242 Holland Ave, Durham, CA 95938-9677

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF (date) March 3, 2022. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

## I. COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

**Substituted Disclosures:** The following disclosures and other disclosures required by law, including the Natural Hazard Disclosure Report/Statement that may include airport annoyances, earthquake, fire, flood, or special assessment information, have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

- Inspection reports completed pursuant to the contract of sale or receipt for deposit.
- Additional inspection reports or disclosures: \_\_\_\_\_

No substituted disclosures for this transfer.

## II. SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

**THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.**

Seller  is  is not occupying the property.

### A. The subject property has the items checked below: \*

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Range  | <input type="checkbox"/> Wall/Window Air Conditioning                              | <input type="checkbox"/> Pool:   |
| <input checked="" type="checkbox"/> Oven   | <input checked="" type="checkbox"/> Sprinklers <u>Condition Unknown</u>            | <input type="checkbox"/> Child Resistant Barrier   |
| <input checked="" type="checkbox"/> Microwave                                      | <input type="checkbox"/> Public Sewer System                                       | <input type="checkbox"/> Pool/Spa Heater:  |
| <input checked="" type="checkbox"/> Dishwasher                                     | <input checked="" type="checkbox"/> Septic Tank                                    | <input type="checkbox"/> Gas <input type="checkbox"/> Solar <input type="checkbox"/> Electric            |
| <input type="checkbox"/> Trash Compactor   | <input type="checkbox"/> Sump Pump   | <input checked="" type="checkbox"/> Water Heater:  |
| <input checked="" type="checkbox"/> Garbage Disposal                               | <input type="checkbox"/> Water Softener  | <input checked="" type="checkbox"/> Gas <input type="checkbox"/> Solar <input type="checkbox"/> Electric |
| <input checked="" type="checkbox"/> Washer/Dryer Hookups                           | <input checked="" type="checkbox"/> Patio/Decking                                  | <input checked="" type="checkbox"/> Water Supply:  |
| <input checked="" type="checkbox"/> Rain Gutters                                   | <input checked="" type="checkbox"/> Built-in Barbecue                              | <input checked="" type="checkbox"/> City <input type="checkbox"/> Well                                   |
| <input type="checkbox"/> Burglar Alarms  | <input type="checkbox"/> Gazebo  | <input type="checkbox"/> Private Utility or Other _____  |
| <input checked="" type="checkbox"/> Carbon Monoxide Device(s)                      | <input type="checkbox"/> Security Gate(s)  | <input checked="" type="checkbox"/> Gas Supply:  |
| <input checked="" type="checkbox"/> Smoke Detector(s)                              | <input checked="" type="checkbox"/> Garage:  | <input checked="" type="checkbox"/> Utility <input type="checkbox"/> Bottled (Tank)                      |
| <input type="checkbox"/> Fire Alarm  | <input checked="" type="checkbox"/> Attached <input type="checkbox"/> Not Attached | <input checked="" type="checkbox"/> Window Screens <u>some missing</u>                                   |
| <input type="checkbox"/> TV Antenna  | <input checked="" type="checkbox"/> Carport  | <input type="checkbox"/> Window Security Bars  |
| <input type="checkbox"/> Satellite Dish  | <input checked="" type="checkbox"/> Automatic Garage Door Opener(s)                | <input type="checkbox"/> Quick Release Mechanism on Bedroom Windows                                      |
| <input type="checkbox"/> Intercom  | <input checked="" type="checkbox"/> Number Remote Controls <u>2</u>                | <input checked="" type="checkbox"/> Water-Conserving Plumbing Fixtures                                   |
| <input checked="" type="checkbox"/> Central Heating                                | <input type="checkbox"/> Sauna   |  |
| <input checked="" type="checkbox"/> Central Air Conditioning                       | <input type="checkbox"/> Hot Tub/Spa:  |  |
| <input type="checkbox"/> Evaporator Cooler(s) <u>Laundry Room</u>                  | <input type="checkbox"/> Locking Safety Cover                                      |  |
| Exhaust Fan(s) in <u>Kitchen, Bathrooms</u> 220 Volt Wiring in <u>Garage</u>       |  | Fireplace(s) in <u>Living Room</u>   |
| <input type="checkbox"/> Gas Starter <input type="checkbox"/> Roof(s): Type: _____ |  | Age: _____ (approx.)   |
| <input type="checkbox"/> Other: _____  |  |  |

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition?  Yes  No. If yes, then describe. (Attach additional sheets if necessary): Condition of sprinkler system unknown

(\*see note on page 2)

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Buyer's Initials \_\_\_\_\_ / \_\_\_\_\_

Seller's Initials X MT IX PL



## REAL ESTATE TRANSFER DISCLOSURE STATEMENT (TDS PAGE 1 OF 3)

Exp Realty of California, Inc., 2603 Camino Ramon, Suite 200 San Ramon CA 94583  
Traci Cooper

Phone: 5305200227

Fax: 5305200227

9242 Holland Ave

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201

www.lwof.com

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following?  Yes  No. If yes, check appropriate space(s) below.

- Interior Walls  Ceilings  Floors  Exterior Walls  Insulation  Roof(s)  Windows  Doors  Foundation  Slab(s)
- Driveways  Sidewalks  Walls/Fences  Electrical Systems  Plumbing/Sewers/Septics  Other Structural Components

(Describe: Living room window, garage window has crack)

If any of the above is checked, explain. (Attach additional sheets if necessary.):

\*Installation of a listed appliance, device, or amenity is not a precondition of sale or transfer of the dwelling. The carbon monoxide device, garage door opener, or child-resistant pool barrier may not be in compliance with the safety standards relating to, respectively, carbon monoxide device standards of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12 of, automatic reversing device standards of Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of, or the pool safety standards of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104 of, the Health and Safety Code. Window security bars may not have quick-release mechanisms in compliance with the 1995 edition of the California Building Standards Code. Section 1101.4 of the Civil Code requires all single-family residences built on or before January 1, 1994, to be equipped with water-conserving plumbing fixtures after January 1, 2017. Additionally, on and after January 1, 2014, a single-family residence built on or before January 1, 1994, that is altered or improved is required to be equipped with water-conserving plumbing fixtures as a condition of final approval. Fixtures in this dwelling may not comply with section 1101.4 of the Civil Code.

C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, mold, fuel or chemical storage tanks, and contaminated soil or water on the subject property  Yes  No
2. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property  Yes  No
3. Any encroachments, easements or similar matters that may affect your interest in the subject property  Yes  No
4. Room additions, structural modifications, or other alterations or repairs made without necessary permits.  Yes  No
5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes  Yes  No
6. Fill (compacted or otherwise) on the property or any portion thereof  Yes  No
7. Any settling from any cause, or slippage, sliding, or other soil problems  Yes  No
8. Flooding, drainage or grading problems  Yes  No
9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides  Yes  No
10. Any zoning violations, nonconforming uses, violations of "setback" requirements  Yes  No
11. Neighborhood noise problems or other nuisances  Yes  No
12. CC&R's or other deed restrictions or obligations  Yes  No
13. Homeowners' Association which has any authority over the subject property  Yes  No
14. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)  Yes  No
15. Any notices of abatement or citations against the property  Yes  No
16. Any lawsuits by or against the Seller threatening to or affecting this real property, claims for damages by the Seller pursuant to Section 910 or 914 threatening to or affecting this real property, claims for breach of warranty pursuant to Section 900 threatening to or affecting this real property, or claims for breach of an enhanced protection agreement pursuant to Section 903 threatening to or affecting this real property, including any lawsuits or claims for damages pursuant to Section 910 or 914 alleging a defect or deficiency in this real property or "common areas" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)  Yes  No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.):

#2 fences #11 orchard across street farming equip

- D. 1. The Seller certifies that the property, as of the close of escrow, will be in compliance with Section 13113.8 of the Health and Safety Code by having operable smoke detector(s) which are approved, listed, and installed in accordance with the State Fire Marshal's regulations and applicable local standards.
2. The Seller certifies that the property, as of the close of escrow, will be in compliance with Section 19211 of the Health and Safety Code by having the water heater tank(s) braced, anchored, or strapped in place in accordance with applicable law.



Property Address: 9242 Holland Ave, Durham, CA 95938-9677

Date: May 10, 2017

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller X Michel Tozier, Trustee Date 3-3-22

Seller X Paula L Tozier, Trustee Date 3/3/22

**III. AGENT'S INSPECTION DISCLOSURE**

(To be completed only if the Seller is represented by an agent in this transaction.)

**THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:**

- See attached Agent Visual Inspection Disclosure (AVID Form)
- Agent notes no items for disclosure.
- Agent notes the following items: \_\_\_\_\_

Agent (Broker Representing Seller) EXp Realty of California, Inc. By \_\_\_\_\_ Date \_\_\_\_\_  
(Please Print) (Associate Licensee or Broker Signature)  
Traci Cooper

**IV. AGENT'S INSPECTION DISCLOSURE**

(To be completed only if the agent who has obtained the offer is other than the agent above.)

**THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:**

- See attached Agent Visual Inspection Disclosure (AVID Form)
- Agent notes no items for disclosure.
- Agent notes the following items: \_\_\_\_\_

Agent (Broker Obtaining the Offer) \_\_\_\_\_ By \_\_\_\_\_ Date \_\_\_\_\_  
(Please Print) (Associate Licensee or Broker Signature)

**V. BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.**

**I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.**

Seller X Michel Tozier, Trustee Date 3-3-22 Buyer \_\_\_\_\_ Date \_\_\_\_\_

Seller X Paula L Tozier, Trustee Date 3/3/22 Buyer \_\_\_\_\_ Date \_\_\_\_\_

Agent (Broker Representing Seller) EXp Realty of California, Inc. By Traci Cooper Date 3-3-22  
(Please Print) (Associate Licensee or Broker Signature)

Agent (Broker Obtaining the Offer) \_\_\_\_\_ By \_\_\_\_\_ Date \_\_\_\_\_  
(Please Print) (Associate Licensee or Broker Signature)

**SECTION 1102.3 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.**

**A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.**

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TDS REVISED 12/21 (PAGE 3 OF 3)

**REAL ESTATE TRANSFER DISCLOSURE STATEMENT (TDS PAGE 3 OF 3)**

Produced with Lone Wolf Transactions (zipForm Edition) 717 N Harwood St, Suite 2200, Dallas, TX 75201 [www.lwof.com](http://www.lwof.com) 9242 Holland Ave



# Residential Earthquake Risk Disclosure Statement (2020 Edition)

Name Michel Tozier, Turstee, Paula L Tozier, Trustee Assessor's Parcel No. 040-233-011-000  
 Street Address 9242 Holland Ave Year Built 1960  
 City Durham County Butte Zip Code 95938-9677

Answer these questions to the best of your knowledge. If any of the questions are answered "No," your home is likely to have an elevated/disclosable earthquake risk. If you do not have actual knowledge as to whether these risks exist, answer "Don't Know." Questions answered "Don't Know" may indicate a need for further evaluation. If your home does not have the feature, answer "Doesn't Apply." If you corrected one or more of these risks, describe the work on a separate page. The page numbers in the right-hand column indicate where in this guide you can find information on each of these features.

	Yes	No	Doesn't Apply	Don't Know	See Page
1. Is the water heater braced to resist falling during an earthquake?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14
2. Is your home bolted to its foundation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15
3. If your home has crawl space (cripple) walls:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
a. Are the exterior crawl space (cripple) walls braced?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17
b. If the exterior foundation consists of unconnected concrete piers and posts, have they been strengthened?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18
4. If the exterior foundation, or part of it, is made of unreinforced masonry, has it been strengthened?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	19
5. If your home is on a hillside:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
a. Are the exterior tall foundation walls braced?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	20
b. Are the tall posts or columns either built to resist earthquakes or have they been strengthened?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	20
6. If the exterior walls of your home are made of unreinforced masonry, either completely or partially, have they been strengthened?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	21
7. If your home has a room over the garage, is the wall around the garage door opening built to resist earthquakes or has it been strengthened?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	22
8. Is your home outside an Alquist-Priolo Earthquake Fault Zone (an area immediately surrounding known active earthquake faults)?	<i>To be reported on the Natural Hazard Disclosure Statement</i>				
9. Is your home outside a Seismic Hazard Zone (an area identified as susceptible to liquefaction or a landslide)?	<i>To be reported on the Natural Hazard Disclosure Statement</i>				

As seller of the property described herein, I have answered the questions above to the best of my knowledge in an effort to disclose fully any potential earthquake risks it may have.

**EXECUTED BY**

*Michel Tozier* Seller Michel Tozier, Turstee      *Paula L Tozier* Seller Paula L Tozier, Trustee      3-3-22 Date

I acknowledge receipt of the Homeowner's Guide to Earthquake Safety and this Disclosure Statement, completed and signed by the seller. I understand that if the seller has answered "No" to one or more questions, or if the seller has indicated a lack of knowledge, there may be one or more earthquake risks in this home.

Buyer \_\_\_\_\_ Buyer \_\_\_\_\_ Date \_\_\_\_\_

This Disclosure Statement is made in addition to the standard real estate transfer disclosure statement also required by law.



# SELLER'S AFFIDAVIT OF NONFOREIGN STATUS (FIRPTA)

(Use a separate form for each Transferor)  
(C.A.R. Form AS, Revised 12/21)

## 1. GENERAL INFORMATION REGARDING FIRPTA AND SELLER'S AFFIDAVIT OF NON-FOREIGN STATUS:

Internal Revenue Code ("IRC") § 1445 provides that a transferee (Buyer) of a U.S. real property interest must withhold tax if the transferor (Seller) is a "foreign person." In order to avoid withholding, IRC § 1445 (b) requires that the Seller (a) provides an affidavit to the Buyer with the Seller's taxpayer identification number ("TIN"), or (b) provides a proper affidavit, (such as this form) including Seller's TIN, to a "qualified substitute" who furnishes a statement to the Buyer under penalty of perjury that the qualified substitute has such affidavit in their possession. A qualified substitute may be (i) an attorney, title company, or escrow company responsible for closing the transaction, or (ii) the Buyer's agent (but not the Seller's agent).

## 2. SELLER'S INFORMATION:

9242 Holland Ave

A. PROPERTY ADDRESS (property being transferred): Durham, CA 95938-9677 ("Property")

B. TRANSFEROR'S NAME: MICHEL TOZIER ("Transferor")

C. AUTHORITY TO SIGN: If this document is signed on behalf of an Entity Transferor, THE UNDERSIGNED INDIVIDUAL DECLARES THAT HE/SHE HAS AUTHORITY TO SIGN THIS DOCUMENT ON BEHALF OF THE TRANSFEROR.

## 3. EXEMPTION CLAIMED: I, the undersigned, declare under penalty of perjury that, for the reason checked below, if any, I am exempt (or if signed on behalf of an Entity Transferor, the Entity is exempt) from the federal withholding law (FIRPTA):

A.  (For individual Transferors) I am not a nonresident alien for purposes of U.S. income taxation.

B.  (For corporation, partnership, limited liability company, trust, and estate transferor) The transferor is not a foreign corporation, foreign partnership, foreign limited liability company, foreign trust, or foreign estate, as those terms are defined in the Internal Revenue Code and Income Tax Regulations.

## 4. QUALIFIED SUBSTITUTE OR DIRECT DELIVERY TO BUYER:

### A. TRANSFEROR'S USE OF QUALIFIED SUBSTITUTE (TITLE OR ESCROW) TO SATISFY FIRPTA

(1) A Qualified Substitute shall be used in this transaction to satisfy the requirements under Internal Revenue Code § 1445. Seller shall provide a completed affidavit to the Qualified Substitute, who will furnish a statement (C.A.R. Form QS) to the Buyer stating, under penalty of perjury that the Qualified Substitute (i) has the Seller's affidavit; (ii) the affidavit is complete; and (iii) the Seller states in the affidavit that no withholding is required because an exemption is claimed.

(2) Qualified Substitute may require Seller to complete and provide to Qualified Substitute the information in paragraph 5. If so, that information should be completed after this form is provided to Buyer. Qualified Substitute and Seller's Broker shall NOT provide the information in paragraph 5 to Buyer.

B.  TRANSFEROR ADDITIONAL INFORMATION DIRECT TO BUYER: If this paragraph is checked, Seller shall complete the information in 5 below and provide a completed form to Buyer.

## 5. SELLER INFORMATION (NOTE: DO NOT PROVIDE THE INFORMATION IN 5 BELOW TO BUYER UNLESS 4B IS CHECKED)

A. Social Security No., or Federal Employer Identification No. (TIN) \_\_\_\_\_

B. Address PO BOX 858 DURHAM CA 95938  
(Use HOME address for individual transferors. Use OFFICE address for an "Entity" i.e.: corporations, partnerships, limited liability companies, trusts, and estates.)

C. Telephone Number 530 343 6298

## 6. CALIFORNIA WITHHOLDING: Seller agrees to provide escrow with necessary information to comply with California Withholding Law, Revenue and Taxation Code, § 18662

I understand that this affidavit may be disclosed to the Internal Revenue Service by the transferee, and that any false statement I have made herein may result in a fine, imprisonment or both.

By Michel Tozier Date 3-4-22  
(Transferor's Signature) (Indicate if you are signing as the grantor of a revocable/grantor trust).

Typed or printed name MICHEL TOZIER Title (If signed on behalf of Entity Transferor) TRUSTEE

## Buyer's unauthorized use of disclosure of Seller's TIN could result in civil or criminal liability.

Buyer \_\_\_\_\_ Date \_\_\_\_\_  
(Buyer acknowledges receipt of a Copy of this Seller's Affidavit).

Buyer \_\_\_\_\_ Date \_\_\_\_\_  
(Buyer acknowledges receipt of a Copy of this Seller's Affidavit).

**IMPORTANT NOTICE: An Affidavit should be signed by each individual or entity Transferor to whom or to which it applies. Before you sign, any questions relating to the legal sufficiency of this form, or to whether it applies to you or to a particular transaction, or about the definition of any of the terms used, should be referred to a qualified California real estate attorney, certified public accountant, or other professional tax advisor, the Internal Revenue Service, or the California Franchise Tax Board.**

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AS REVISED 12/21 (PAGE 1 OF 2)



## SELLER'S AFFIDAVIT OF NONFOREIGN STATUS AND CALIFORNIA WITHHOLDING (AS PAGE 1 OF 2)

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9242 Holland Ave

## FEDERAL GUIDELINES

**FOREIGN PERSONS DEFINED.** The following general information is provided to assist sellers in determining whether they are "foreign persons" for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), IRC §1445. FIRPTA requires a buyer to withhold and send to the IRS 15% of the gross sales price of a United States (U.S.) real property interest if the seller is a foreign person. Certain restrictions and limitations apply. No withholding is required for a seller who is a U.S. person (that is, not a foreign person). In order for an individual to be a U.S. person, he/she must be either a U.S. citizen or a U.S. resident alien. The test must be applied separately to each seller in transactions involving more than one seller. Even if the seller is a foreign person, withholding will not be required in every circumstance.

**NONRESIDENT ALIEN INDIVIDUAL.** An individual whose residence is not within the U.S. and who is not a U.S. citizen is a nonresident alien. The term includes a nonresident alien fiduciary. An alien actually present in the U.S. who is not just staying temporarily (i.e., not a mere transient or sojourner), is a U.S. resident for income tax purposes. An alien is considered a U.S. resident and not subject to withholding under FIRPTA if the alien meets either the **green card test** or the **substantial presence test** for the calendar year.

**GREEN CARD TEST.** An alien is a U.S. resident if the individual was a lawful permanent resident of the U.S. at any time during the calendar year. This is known as the "green card test."

**SUBSTANTIAL PRESENCE TEST.** An alien is considered a U.S. resident if the individual meets the substantial presence test for the calendar year. Under this test, the individual must be physically present in the U.S. on at least: (1) 31 days during the current calendar year; and (2) 183 days during the current year and the two preceding years, counting all the days of physical presence in the current year but only 1/3 the number of days present in the first preceding year, and 1/6 the number of days present in the second preceding year.

**DAYS OF PRESENCE IN THE U.S. TEST.** Generally, a person is treated as physically present in the country at any time during the day. However, if a person regularly commutes to work in the U.S. from a residence in Canada or Mexico or is in transit between two points outside the U.S. and is physically present in the country for less than 24 hours, he/she is not treated as present in the U.S. on any day during the transit or commute. In addition, the individual is not treated as present in the U.S. on any day during which he/she is unable to leave the U.S. because of a medical condition which arose while in the U.S.

**EXEMPT INDIVIDUAL.** For the substantial presence test, do not count days for which a person is an exempt individual. An exempt individual is anyone in the following categories:

- 1) An individual temporarily present in the U.S. because of (a) full-time diplomatic or consular status, (b) full-time employment with an international organization or (c) an immediate family member of a person described in (a) or (b).
- 2) A teacher or trainee temporarily present in the U.S. under a "J" visa (other than as a student) who substantially complies with the requirements of the visa. An individual will not be exempt under this category for a calendar year if he/she was exempt as a teacher or trainee or as a student for any two calendar years during the preceding six calendar years.
- 3) A student temporarily present in the U.S. under an "F" or "J" visa who substantially complies with the requirements of the visa. Generally, a person will not be exempt as a student for any calendar year after the fifth calendar year for which he/she was exempt as a student, teacher or trainee. However, the individual may continue to be exempt as a student beyond the fifth year if he/she is in compliance with the terms of the student visa and does not intend to permanently reside in the U.S.

**CLOSER CONNECTION TO A FOREIGN COUNTRY.** Even if an individual would otherwise meet the substantial presence test, that person is not treated as meeting the test for the current calendar year if he/she:

- 1) Is present in the U.S. on fewer than 183 days during the current year, and has a tax home in a foreign country and has a closer connection to that country than to the U.S.
- 2) **SPECIAL RULES.** It is possible to be both a nonresident alien and a resident alien during the same tax year. Usually this occurs for the year a person arrives in or departs from the U.S. Other special provisions apply to individuals who were U.S. residents for at least three years, cease to be U.S. residents, and then become U.S. residents again.

**NONRESIDENT ALIEN INDIVIDUALS MARRIED TO U.S. CITIZENS OR RESIDENT ALIENS** may choose to be treated as resident aliens for most income tax purposes. However, these individuals are considered **nonresidents** for purposes of withholding taxes.

**A FOREIGN PERSON OR PARTNERSHIP** is one that does not fit the definition of a domestic corporation or partnership. A domestic corporation or partnership is one that was created or organized in the U.S., or under the laws of the U.S., or of any U.S. state or territory.

**GUAM AND U.S. VIRGIN ISLANDS CORPORATIONS.** A corporation created or organized in or under the laws of Guam or the U.S. Virgin Islands is not considered a foreign corporation for the purpose of withholding tax for the tax year if:

- 1) at all times during the tax year, less than 25% in value of the corporation's stock is owned, directly or indirectly, by foreign persons, and
- 2) at least 20% of the corporation's gross income is derived from sources within Guam or at least 65% of the corporation's income is effectively connected with the conduct of a trade or business in the U.S. Virgin Islands or the U.S. for the 3-year period ending with the close of the preceding tax year of the corporation, or the period the corporation has been in existence if less.

**A NONRESIDENT ALIEN TRUSTEE, ADMINISTRATOR OR EXECUTOR** of a trust or an estate is treated as a nonresident alien, even though all the beneficiaries of the trust or estate are citizens or residents of the U.S.

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Seller Initials MT / \_\_\_\_\_



AS REVISED 12/21 (PAGE 2 OF 2)

**SELLER'S AFFIDAVIT OF NONFOREIGN STATUS AND CALIFORNIA WITHHOLDING (AS PAGE 2 OF 2)**



# SELLER'S AFFIDAVIT OF NONFOREIGN STATUS (FIRPTA)

(Use a separate form for each Transferor)  
(C.A.R. Form AS, Revised 12/21)

## 1. GENERAL INFORMATION REGARDING FIRPTA AND SELLER'S AFFIDAVIT OF NON-FOREIGN STATUS:

Internal Revenue Code ("IRC") § 1445 provides that a transferee (Buyer) of a U.S. real property interest must withhold tax if the transferor (Seller) is a "foreign person." In order to avoid withholding, IRC § 1445 (b) requires that the Seller (a) provides an affidavit to the Buyer with the Seller's taxpayer identification number ("TIN"), or (b) provides a proper affidavit, (such as this form) including Seller's TIN, to a "qualified substitute" who furnishes a statement to the Buyer under penalty of perjury that the qualified substitute has such affidavit in their possession. A qualified substitute may be (i) an attorney, title company, or escrow company responsible for closing the transaction, or (ii) the Buyer's agent (but not the Seller's agent).

## 2. SELLER'S INFORMATION:

- A. **PROPERTY ADDRESS** (property being transferred): 9242 Holland Ave ("Property")
- B. **TRANSFEROR'S NAME:** Paula L. Tozier ("Transferor")
- C. **AUTHORITY TO SIGN:** If this document is signed on behalf of an Entity Transferor, THE UNDERSIGNED INDIVIDUAL DECLARES THAT HE/SHE HAS AUTHORITY TO SIGN THIS DOCUMENT ON BEHALF OF THE TRANSFEROR.

## 3. EXEMPTION CLAIMED: I, the undersigned, declare under penalty of perjury that, for the reason checked below, if any, I am exempt (or if signed on behalf of an Entity Transferor, the Entity is exempt) from the federal withholding law (FIRPTA):

- A.  (For individual Transferors) I am not a nonresident alien for purposes of U.S. income taxation.
- B.  (For corporation, partnership, limited liability company, trust, and estate transferor) The transferor is not a foreign corporation, foreign partnership, foreign limited liability company, foreign trust, or foreign estate, as those terms are defined in the Internal Revenue Code and Income Tax Regulations.

## 4. QUALIFIED SUBSTITUTE OR DIRECT DELIVERY TO BUYER:

### A. TRANSFEROR'S USE OF QUALIFIED SUBSTITUTE (TITLE OR ESCROW) TO SATISFY FIRPTA

(1) A Qualified Substitute shall be used in this transaction to satisfy the requirements under Internal Revenue Code § 1445. Seller shall provide a completed affidavit to the Qualified Substitute, who will furnish a statement (C.A.R. Form QS) to the Buyer stating, under penalty of perjury that the Qualified Substitute (i) has the Seller's affidavit; (ii) the affidavit is complete; and (iii) the Seller states in the affidavit that no withholding is required because an exemption is claimed.

(2) Qualified Substitute may require Seller to complete and provide to Qualified Substitute the information in paragraph 5. If so, that information should be completed after this form is provided to Buyer. Qualified Substitute and Seller's Broker shall NOT provide the information in paragraph 5 to Buyer.

### B. TRANSFEROR ADDITIONAL INFORMATION DIRECT TO BUYER: If this paragraph is checked, Seller shall complete the information in 5 below and provide a completed form to Buyer.

## 5. SELLER INFORMATION (NOTE: DO NOT PROVIDE THE INFORMATION IN 5 BELOW TO BUYER UNLESS 4B IS CHECKED)

- A. Social Security No., or Federal Employer Identification No. (TIN) \_\_\_\_\_
- B. Address PO Box 868 Durham CA 95938  
(Use HOME address for individual transferors. Use OFFICE address for an "Entity" i.e.: corporations, partnerships, limited liability companies, trusts, and estates.)
- C. Telephone Number 530 343 6298

## 6. CALIFORNIA WITHHOLDING: Seller agrees to provide escrow with necessary information to comply with California Withholding Law, Revenue and Taxation Code, § 18662

I understand that this affidavit may be disclosed to the Internal Revenue Service by the transferee, and that any false statement I have made herein may result in a fine, imprisonment or both.

By Paula L. Tozier Date 3/4/22  
(Transferor's Signature) (Indicate if you are signing as the grantor of a revocable/grantor trust).

Typed or printed name \_\_\_\_\_ Title (If signed on behalf of Entity Transferor) Trustee

## Buyer's unauthorized use of disclosure of Seller's TIN could result in civil or criminal liability.

Buyer \_\_\_\_\_ Date \_\_\_\_\_  
(Buyer acknowledges receipt of a Copy of this Seller's Affidavit).

Buyer \_\_\_\_\_ Date \_\_\_\_\_  
(Buyer acknowledges receipt of a Copy of this Seller's Affidavit).

**IMPORTANT NOTICE: An Affidavit should be signed by each individual or entity Transferor to whom or to which it applies. Before you sign, any questions relating to the legal sufficiency of this form, or to whether it applies to you or to a particular transaction, or about the definition of any of the terms used, should be referred to a qualified California real estate attorney, certified public accountant, or other professional tax advisor, the Internal Revenue Service, or the California Franchise Tax Board.**

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## SELLER'S AFFIDAVIT OF NONFOREIGN STATUS AND CALIFORNIA WITHHOLDING (AS PAGE 1 OF 2)

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For further information on federal guidelines, see C.A.R. Legal Q & A "Federal Withholding: The Foreign Investment in Real Property Tax Act," and/or IRS Publication 515 or 519. For further information on state guidelines, see C.A.R. Legal Q & A "California Nonresident Withholding," and/or California FTB Pub. 1016.

### FEDERAL GUIDELINES

**FOREIGN PERSONS DEFINED.** The following general information is provided to assist sellers in determining whether they are "foreign persons" for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), IRC §1445. FIRPTA requires a buyer to withhold and send to the IRS 15% of the gross sales price of a United States (U.S.) real property interest if the seller is a foreign person. Certain restrictions and limitations apply. No withholding is required for a seller who is a U.S. person (that is, not a foreign person). In order for an individual to be a U.S. person, he/she must be either a U.S. citizen or a U.S. resident alien. The test must be applied separately to each seller in transactions involving more than one seller. Even if the seller is a foreign person, withholding will not be required in every circumstance.

**NONRESIDENT ALIEN INDIVIDUAL.** An individual whose residence is not within the U.S. and who is not a U.S. citizen is a nonresident alien. The term includes a nonresident alien fiduciary. An alien actually present in the U.S. who is not just staying temporarily (i.e., not a mere transient or sojourner), is a U.S. resident for income tax purposes. An alien is considered a U.S. resident and not subject to withholding under FIRPTA if the alien meets either the **green card test** or the **substantial presence test** for the calendar year.

**GREEN CARD TEST.** An alien is a U.S. resident if the individual was a lawful permanent resident of the U.S. at any time during the calendar year. This is known as the "green card test."

**SUBSTANTIAL PRESENCE TEST.** An alien is considered a U.S. resident if the individual meets the substantial presence test for the calendar year. Under this test, the individual must be physically present in the U.S. on at least: (1) 31 days during the current calendar year; and (2) 183 days during the current year and the two preceding years, counting all the days of physical presence in the current year but only 1/3 the number of days present in the first preceding year, and 1/6 the number of days present in the second preceding year.

**DAYS OF PRESENCE IN THE U.S. TEST.** Generally, a person is treated as physically present in the country at any time during the day. However, if a person regularly commutes to work in the U.S. from a residence in Canada or Mexico or is in transit between two points outside the U.S. and is physically present in the country for less than 24 hours, he/she is not treated as present in the U.S. on any day during the transit or commute. In addition, the individual is not treated as present in the U.S. on any day during which he/she is unable to leave the U.S. because of a medical condition which arose while in the U.S.

**EXEMPT INDIVIDUAL.** For the substantial presence test, do not count days for which a person is an exempt individual. An exempt individual is anyone in the following categories:

- 1) An individual temporarily present in the U.S. because of (a) full-time diplomatic or consular status, (b) full-time employment with an international organization or (c) an immediate family member of a person described in (a) or (b).
- 2) A teacher or trainee temporarily present in the U.S. under a "J" visa (other than as a student) who substantially complies with the requirements of the visa. An individual will not be exempt under this category for a calendar year if he/she was exempt as a teacher or trainee or as a student for any two calendar years during the preceding six calendar years.
- 3) A student temporarily present in the U.S. under an "F" or "J" visa who substantially complies with the requirements of the visa. Generally, a person will not be exempt as a student for any calendar year after the fifth calendar year for which he/she was exempt as a student, teacher or trainee. However, the individual may continue to be exempt as a student beyond the fifth year if he/she is in compliance with the terms of the student visa and does not intend to permanently reside in the U.S.

**CLOSER CONNECTION TO A FOREIGN COUNTRY.** Even if an individual would otherwise meet the substantial presence test, that person is not treated as meeting the test for the current calendar year if he/she:

- 1) Is present in the U.S. on fewer than 183 days during the current year, and has a tax home in a foreign country and has a closer connection to that country than to the U.S.
- 2) **SPECIAL RULES.** It is possible to be both a nonresident alien and a resident alien during the same tax year. Usually this occurs for the year a person arrives in or departs from the U.S. Other special provisions apply to individuals who were U.S. residents for at least three years, cease to be U.S. residents, and then become U.S. residents again.

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