



DISCLOSUREWATCH[®]

PLATINUM NEWSLETTER - The Latest In Real Estate Disclosure News

VOLUME IX

When Close Becomes Too Close

By Mailana G. Mavromatis, Esq.

The recent landslides in the coastal La Conchita community of Ventura County, that buried 13 homes and killed 10 people, brings to light the question of the sufficiency of a simple “INOUT” disclosure.

According to the current map (the Pitas Point Quadrangle dated December 20, 2002) issued by the California Geological Survey under the Seismic Hazard Mapping Act, the homes along the heavily damaged Vista del Rincon Drive in La Conchita are NOT located in a landslide zone. Although this area had experienced landslides in the past (including a slide that occurred in March 1995) of which many old timers in the neighborhood were aware, any new buyers in the area would not have known about the area’s susceptibility to landslide. Even worse, the 6th item on the Natural Hazard Disclosure Statement (“NHDS”) would have confirmed that the properties along Vista del Rincon Drive are NOT located in a landslide zone.

In a 1991 Court of Appeals case, Vail vs. Edmonds, a realtor in Malibu listed a property in the Big Rock Mesa area in Malibu. At that time, the NHDS was not yet law, and didn’t become effective law until January 1999. The diligent realtor ordered a report that was based on local information for the city of Malibu and Los Angeles County. The report revealed that a property two doors down from her listed property was located in a landslide zone. The realtor presented this information to the buyers, who reviewed the report, bought the property, and closed escrow.

Two months after the buyers closed escrow, tiles in their living room started to crack. Two months later, a fifteen-foot crevice opened up in their back yard. Four months after that (eight months after escrow closed) Los Angeles County condemned the property and its appraised value was ZERO. The buyers, unhappy that their newly purchased property had been condemned, decided to sue everybody and in the process the realtor lost her license.

It turns out, the realtor lived in the area and failed to inform the buyers about a known upcoming meeting regarding the neighborhood’s frequent landslides. In this case, the realtor sued the real estate commissioner to get her license back. The judge ruled that because she had provided a report based on local information, which

sufficiently notified the buyers that the neighborhood was experiencing landslides, the realtor had fulfilled her fiduciary responsibilities. The realtor was found not incompetent, not negligent, and got her license back.

To this day, the properties on Vista del Rincon Drive in La Conchita are NOT deemed to be located in an officially designated landslide hazard zone by the maps issued by the State. Property ID is the only natural hazard disclosure report provider that details in its standard report whether a property is not only IN or OUT of a landslide hazard zone, but also if the property is within one quarter of a mile radius of that zone. With the increasing responsibility faced by agents in the real estate industry, now, more than ever, you need to ensure that the report you are using is complete and accurate.



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PLATINUM UPDATE

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