

FANHD Commercial Property Disclosure Report

TERMS and CONDITIONS

ACCEPTANCE OR USE OF THIS REPORT CONSTITUTES APPROVAL AND ACCEPTANCE OF THE TERMS, CONDITIONS, AND LIMITATIONS STATED HEREIN.

The Report ("Report") is subject to each of the following Terms and Conditions. Each Recipient (defined below) of the Report agrees that the Report is subject to the following Terms and Conditions, and each Recipient agrees to be bound by such. Use of this Report by any Recipient constitutes acceptance of the Terms and Conditions to the Report. The Terms and Conditions below are incorporated by this reference into the Report. **This Report is not an insurance policy.**

This Report is made for the real property specifically described in the Report (the "Property") and solely for the transaction for which it was originally purchased ("Transaction"). The Property shall not include any property beyond the boundaries of the real property described in the Report. The Property shall not include any structures (whether located on the Property, or not), easements, or any right, title, interest, estate, or easement in any abutting streets, roads, alleys, lanes, ways, or waterways.

IMPORTANT NOTICE: Transferor(s) and transferee(s) shall read the complete Report in its entirety before the close of escrow. A "Signature Page" or "Summary Pages" document may be included in the electronic delivery of this Report. Those documents do not replace the complete Report or remove the need to read the complete Report, and do not remove the requirement to disclose. The Signature Page and Summary Pages documents are subject to the Terms and Conditions of the complete Report.

- A. **No Third-Party Reliance on This Report.** Only the transferor(s) and transferee(s), and their agents/brokers, if any, involved in the Transaction (collectively, the "Recipients") may use and rely on this Report and only after they have paid in full for the Report. While disclosures made on the Natural Hazard Disclosure Statement in the Report may indicate certain risks to the Property, the disclosures are only "...between the transferor, the transferor's agents, and the transferee, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose." Cal. Civil Code section 1103.2, subdivision (g).
- B. **Seller and Seller's Agent's Responsibility of Full Disclosure.** Recipients are obligated to make disclosures, and always disclose material facts, that are within their actual knowledge.
- C. **Scope of Report.** This Report is limited to determining whether the Property is in those specified natural hazard zones and property tax districts, and in proximity to those specified environmental sites (depending on the report product ordered), as defined in the Report. The Report is not a geologic report or a land survey and no site inspection has been made in producing the Report. FANHD makes no determination, expresses no opinion or view, and assumes no responsibility in this Report concerning the right, entitlement, or ability to develop or improve the Property. FANHD has no information concerning whether the Property can be developed or improved. No determination is made and no opinion is expressed, or intended, by this Report concerning structures or soils on or outside of the Property, including, without limitation, habitability of structures or the Property, suitability of the Property for construction or improvement, potential for soil settlement, drainage, soil subsidence, or other soil or site conditions. The Recipient(s) is advised to consult the local Planning Department to determine whether factors beyond the scope of this Report may limit the transferee(s) ability to use or improve the Property.

The Report is not a title report, and no determination is made and no opinion is expressed, or intended, by this Report as to title to the Property or liens against the Property, recorded or otherwise, or whether the Property is comprised of legal lots in conformance with the California Subdivision Map Act or local ordinances. The Report is not a property inspection report, and no determination is made and no opinion is expressed, or intended, by this Report concerning architectural, structural, mechanical, engineering, or legal matters, or the marketability or value of the Property. FANHD has not conducted any testing or physical or visual examination or inspection of the Property, nor is this Report a substitute for any such testing, physical or visual examination, or inspection.

- D. **Tax and Environmental Disclosures (if included in Report).** No determination is made and no opinion is expressed, or intended, by the Report concerning the existence of property tax liabilities, or the existence of hazardous or toxic materials or substances, or any other defects, on, under, or in

proximity to the Property, unless specifically described in the Report. FANHD's total liability for any error or omission in its disclosures relating to taxes and/or environmental matters shall be limited to actual proven damages not to exceed the price paid for this Report.

- E. **FANHD Database Updates.** Each database used in this Report is updated by the responsible agency at various intervals. Updates for a database are determined by the responsible agency and may be made at any time and without notice. FANHD maintains an update schedule and makes reasonable efforts to use updated information. For these reasons, FANHD reports information as of the date when the database was last updated by FANHD. That date is specified as the "Database Date" for each database. The Tax Report discloses Mello Roos Community Facilities Districts, 1915 Bond Act Assessments and PACE assessments documented in the county's Fiscal Year 2021-2022 annual secured property tax roll. The Report may disclose PACE contracts where PACE taxes were first assessed or liens were recorded after the Fiscal Year 2021-2022 secured property tax roll, where recordation data is available to JCP-LGS. To discover a PACE lien on the Property executed more recently, the buyer should read the preliminary title report and obtain and read all exceptions listed therein. Note that, in the title report, lien exceptions are named as recorded with the county; therefore, a PACE lien may be listed under a name that is not obvious.
- F. **Statutory and Additional Disclosures, Advisories, and Local Addenda (if included in Report).** No determination is made and no opinion is expressed, or intended, by this Report concerning the need to purchase earthquake or flood insurance for the Property. In preparing the Report, FANHD accurately reported on information contained in Government Records. FANHD reviewed and relied upon those Government Records specifically identified and described in the Report. FANHD has not reviewed or relied upon any Government Records that are not specifically identified in the Report. FANHD also has not reviewed any plat maps, survey maps, surveyor maps, assessor maps, assessor parcel maps, developer maps, or engineering maps, whether or not such maps have been recorded. No determination is made and no opinion is expressed, or intended, by the Report concerning any matters identified in Government Records that were not reviewed by FANHD. Local Addenda, where applicable, are included "AS IS" as an accommodation to the local real estate board that provided the content; FANHD assumes no responsibility for the accuracy of any information included in the Local Addenda.
- G. **FEMA Flood Determination Certificate (if accompanying the Report).** No determination is made and no opinion is expressed, or intended, by the Report concerning the requirement for or cost of flood insurance on the Property. Recipient(s) understands that a lender may require flood insurance to secure its loan collateral independent of whether FEMA may require flood insurance under the National Flood Insurance Program on a federally backed mortgage. The FEMA Flood Determination Certificate ("Flood Certificate"), which may accompany the Report, is produced by a third-party expert certified by FEMA to provide Flood Certificates. FANHD assumes no liability for errors in that third-party flood determination.
- H. **Changes to Government Record after Report Date.** This Report is issued as of the Report Date identified in the Report. FANHD shall have no obligation to advise any Recipient of any information learned or obtained after the Report Date even if such information would modify or otherwise affect the Report. Subsequent to FANHD acquisition of Government Records, changes may be made to said Government Records and FANHD is not responsible for advising the Recipients of any changes. FANHD will update this Report upon request and at no charge during the transaction process for which this Report was issued, but not to exceed one year from the date of the Report. Likewise, FANHD is not liable for any impact on the Property that any change to the Government Records may have.
- I. **Government Record Sources.** FANHD relies upon the Government Records specifically identified in the Report without conducting an independent investigation of their accuracy. FANHD assumes no responsibility for the accuracy of the Government Records identified in the Report. FANHD makes no warranty or representation of any kind, express or implied, with respect to the Report. FANHD expressly disclaims and excludes any and all other express and implied warranties, including, without limitation, warranties of merchantability or fitness for a particular purpose. The FANHD Report is "AS IS".
- J. **Limitation of FANHD's Liability**
1. FANHD is not responsible for:
 - Any inaccuracies or incompleteness of the information in the Public Records.
 - Inaccurate address information provided for the Property.

- Any other information not contained in the Public Records as of the Report Date.
 - Any information which would be disclosed by a physical inspection of the Property.
 - Any information known by one of the Parties.
 - The health or risk to humans or animals that may be associated with any of the disclosed hazards.
 - The costs of investigating or remediating any of the disclosed hazards.
2. FANHD's total liability and responsibility to all Recipients collectively for any and all liabilities, causes of action, claim or claims, including but not limited to claims for breach of contract or negligence, shall be limited to the price paid for the Report. FANHD expressly disclaims any liability for Recipients indirect, incidental and/or consequential damages, including without limitation lost profits even if such damages are foreseeable. In the event of any error, omission or inaccuracy in the FANHD Report for which FANHD is liable, FANHD shall have no duty to defend or pay any attorneys' fees, costs or expenses incurred by the Recipients, or any of them. The Recipients, and each of them, expressly waive the benefits of California Civil Code Section 2778. FANHD has not conducted an independent investigation of the accuracy of the information provided by the Recipient. FANHD assumes no responsibility for the accuracy of information provided by the Recipient. FANHD shall be subrogated to all rights of any claiming party against anyone including, but not limited to, another party who had actual knowledge of a matter and failed to disclose it to the Recipients in writing prior to the close of escrow.
- K. Reporting of Risk Elements for Condominium Projects, Planned Unit Developments, and Other Properties with Common or Undivided Interests.** Unless otherwise noted, this report is based solely on the real Property referenced by the Property's Assessor's Parcel Number ("APN"). An APN whose boundary does not include all Common Interests associated with the parcel will generate a report which does not identify the natural hazards relating to the Common Interests that extend beyond the APN parcel boundary. Accordingly, it is imperative that you consult with the property's homeowners association(s) to determine those risks.
- L. Governing Law.** The Report shall be governed by, and construed in accordance with, the laws of the State of California.
- M. Small Claims or Arbitration.** This provision constitutes an agreement to arbitrate disputes on an individual basis. Any party may bring an individual action in small claims court instead of pursuing arbitration, so long as the action remains in that court. All disputes and claims arising out of or relating to the Website, Customer Service, or any Report must be resolved by binding arbitration. This agreement to arbitrate includes, but is not limited to, all disputes and claims between FANHD, transferor(s) and transferee(s) and claims that arose prior to purchase of the Report. This agreement to arbitrate applies to transferor(s) and transferee(s) successors in interest, assigns, heirs, spouses, and children. As noted above, a party may elect to bring an individual action in small claims court instead of arbitration, so long as the dispute falls within the jurisdictional requirements of small claims court.

Any arbitration must take place on an individual basis, FANHD, transferor(s) and transferee(s) agree that they are waiving any right to a jury trial and to bring or participate in a class, representative, or private attorney general action, and further agree that the arbitrator lacks the power to consider claims for injunctive or declaratory relief, or to grant relief affecting anyone other than the individual claimant. If a court decides that any of the provisions of this paragraph are invalid or unenforceable as to a particular claim or request for a particular remedy (such as a request for public injunctive relief), then that claim or request for that remedy must be brought in court and all other claims and requests for remedies must be arbitrated in accordance with this agreement.

The arbitration is governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. Company will pay all AAA filing, administration and arbitrator fees for any arbitration it initiates and for any arbitration initiated by another party for which the value of the claims is \$75,000 or less, unless an arbitrator determines that the claims have been brought in bad faith or for an improper purpose, in which case the payment of AAA fees will be governed by the AAA Rules. **A COPY OF THESE RULES IS AVAILABLE FROM THE AAA'S WEB SITE AT WWW.ADR.ORG OR ON REQUEST FROM THE COMPANY. THE ARBITRATION AWARD MAY INCLUDE ATTORNEY'S FEES IF ALLOWED BY FEDERAL, STATE, OR OTHER APPLICABLE LAW AND MAY BE ENTERED AS A JUDGMENT IN ANY COURT OF PROPER JURISDICTION.**



The arbitration will take place in the same county in which the property covered by the Report is located. The Federal Arbitration Act will govern the interpretation, applicability and enforcement of this arbitration agreement. This arbitration agreement will survive the termination of this Report.

- N. **Severability.** If any provision of the Terms and Conditions to this Report is determined to be invalid or unenforceable for any reason, then such provision shall be treated as severed from the remainder of the Terms and Conditions, and shall not affect the validity and enforceability of all of the other provisions of the Terms and Conditions.
- O. **Other Agreements.** This Report constitutes the entire, integrated agreement between FANHD and Recipients, and supersedes and replaces all prior statements, representations, negotiations, and agreements.