

DISCLOSURES AND OTHER BUYER INFORMATION

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September 2004

I. CONDOMINIUM DISCLOSURE DOCUMENTS – WIS. STAT. § 703.33

A. Disclosure Documents -- § 703.33(1) & (2)

The basic disclosure material that the seller must furnish to the buyer of a residential condominium unit that is offered for sale in Wisconsin shall include a copy of the following (for disclosure materials used in transactions closing on or after Nov. 1, 2004):

1. Cover sheet entitled “Disclosure Materials,” that states the condominium name and location; the name and business address of the declarant and the declarant’s agent, or the seller if the seller is not the declarant; and three boldface statements in capital letters, per § 703.33(2)(a):

1. THESE ARE THE LEGAL DOCUMENTS COVERING YOUR RIGHTS AND RESPONSIBILITIES AS A CONDOMINIUM OWNER. IF YOU DO NOT UNDERSTAND ANY PROVISIONS CONTAINED IN THEM, YOU SHOULD OBTAIN PROFESSIONAL ADVICE.

2. THESE DISCLOSURE MATERIALS GIVEN TO YOU AS REQUIRED BY LAW MAY BE RELIED UPON AS CORRECT AND BINDING. ORAL STATEMENTS MAY NOT BE LEGALLY BINDING.

3. YOU MAY AT ANY TIME WITHIN 5 BUSINESS DAYS FOLLOWING RECEIPT OF THESE DOCUMENTS, OR FOLLOWING NOTICE OF ANY MATERIAL CHANGES IN THESE DOCUMENTS, CANCEL IN WRITING THE CONTRACT OF SALE AND RECEIVE A FULL REFUND OF ANY DEPOSITS MADE. IF THE SELLER DELIVERS LESS THAN ALL OF THE DOCUMENTS REQUIRED, YOU MAY, WITHIN 5 BUSINESS DAYS FOLLOWING RECEIPT OF THE DOCUMENTS, DELIVER A REQUEST FOR ANY MISSING DOCUMENTS. IF YOU TIMELY DELIVER A REQUEST FOR MISSING DOCUMENTS, YOU MAY, AT ANY TIME WITHIN 5 BUSINESS DAYS FOLLOWING THE EARLIER OF EITHER THE RECEIPT OF THE REQUESTED DOCUMENTS OR THE SELLER'S DEADLINE TO DELIVER THE REQUESTED DOCUMENTS, CANCEL IN WRITING THE CONTRACT OF SALE AND RECEIVE A FULL REFUND OF ANY DEPOSITS MADE.

2. Index to the whole booklet or packet of condominium disclosure materials, substantially in the format specified in § 703.033(2)(b)
3. Declaration (proposed or existing), with separate table of contents
4. Bylaws (proposed or existing), with separate table of contents
5. Rules and regulations (proposed or existing)
6. Articles of incorporation for condominium association (proposed or existing), if applicable
7. Management, employment and other contracts (proposed or existing) relating to condominium use, maintenance or access, to which the association or the unit owners will be a party after closing
8. Annual condominium operating budget (projected), including estimated unit monthly assessment fees and monthly charges for use, rental or lease of facilities not part of the condominium
9. Any lease to which the association or the unit owners will be a party after closing, if applicable
10. Description of any expansion plans including a description of each planned stage and the total number of units that may be added to the condominium, if applicable
11. Unit floor plan and information showing location of the common elements and other facilities, specifying which facilities are part of the condominium and which are owned by others

B. Disclosure Material Requirements for Small Condominiums

The disclosure materials for a small condominium (no more than 12 units) are limited to items #s 3-9 above plus a copy of the condominium plat. A small condominium may have an agreement in lieu of bylaws.

C. Disclosure Material Requirements for Conversion Condominiums

For conversion condominiums with five or more units, the declarant must provide the following additional materials to the buyer [per § 703.33(2)(cm)]:

1. Declarant's statement, based upon an architect or engineer's report, describing the condition of structural, mechanical and electrical components that are material to the use and enjoyment of the building
2. Declarant's statement regarding the expected useful life of the building's essential structural, mechanical and electrical components
3. List of outstanding municipal and building code violations and the estimated costs of curing the violations

D. Disclosure Materials Format--§ 703.33(2)(c): Nov. 1, 2004 Changes

1. The disclosure materials need not be consecutively paginated throughout the whole booklet or packet.
2. Each section of the disclosure materials must be separately identified by a tab, letter or number
3. Consecutive pagination is required within each section only
4. No table of contents for the articles of incorporation.

E. Timing and Procedures

Deadline for Delivery: The condominium disclosure materials must be furnished to the prospective buyer no later than 15 days before closing.

Best Place to Obtain Current Disclosure Materials: The association. Wis. Stat. § 703.20(2) requires the association to provide necessary disclosure materials within 10 days of a seller's request, at the seller's cost. All unit sellers should obtain a current copy of the condominium disclosure materials from the association to avoid the problems that may arise if the seller gives the buyer an incomplete or outdated set of documents.

New Procedure for Missing Disclosure Materials: At present, if the buyer does not receive all of the required information, the buyer's 5-business-day time period for rescission never begins to run, leaving the buyer with a way to back out of the transaction right up until closing. Beginning with transactions closing on or after November 1, 2004, if the buyer receives condominium disclosure materials that include the cover sheet but are missing one or more documents, the buyer will have 5 business days to either rescind the offer or to request that the seller deliver the missing documents. If the buyer neither rescinds nor requests missing documents within the 5 business days, then the buyer will have no further right to rescind based upon those materials. The seller has 5 business days following receipt of the buyer's request to deliver the missing documents. The buyer may rescind the sale within 5 business days of the buyer's receipt of the requested missing documents, or within 5 business days of the seller's deadline for delivering the documents, whichever is earlier.

Right to Rescind: A buyer may rescind within 5 business days of:

1. Buyer's receipt of all required documents
2. Buyer's receipt of all materially changed or amended disclosure materials
3. Buyer's receipt of incomplete documents
4. If buyer requests missing materials, within 5 business days of buyer's receipt of the missing documents or seller's deadline to deliver missing materials, whichever is earlier

Buyer's rescission of the offer to purchase must be in writing and need not state any reason. Upon rescission, the buyer is entitled to the return of earnest money and any other deposits made under the purchase contract.

F. Executive Summary -- §703.33(1)(h)

The executive summary is intended to be a user-friendly index for the voluminous disclosure materials provided to condominium buyers. The executive summary summarizes the most important information buyers want or need to know about a condominium, for example, the rules for pets, parking and rentals, or directs them to the sections of the disclosure materials where that information is found. The executive summary must address the following topics:

1. Condominium identification – the name of the condominium.
2. Expansion plans -- description of any condominium expansion plans, the deadline for completion of any expansion, and who is responsible for management during the expansion period.
3. Governance -- the name and address of the condominium association, whether the association is self-managed or has delegated management and the name and address of the person who may be contacted for general condominium information.
4. Special amenities – a description of special amenities like a golf course or athletic club, and any unit owner obligations to join or pay dues.
5. Unit repair and maintenance responsibilities -- a description of a unit owner's repair and maintenance responsibilities.
6. Common element and limited common element maintenance, repair and replacement -- identity of person responsible for the maintenance, repair, and replacement of the common elements and the limited common elements, and whether this is paid for with unit assessments, reserve funds or both.
7. Unit rentals -- whether unit owners may rent their units and any restrictions on rentals.
8. Unit alterations -- description of the rules, restrictions and procedures for unit owners who want to alter their units or enclose limited common elements.
9. Parking -- a description of parking availability, restrictions and costs.
10. Pets – a description of the rules relating to pets.
11. Reserves – whether the association has reserves for common element repairs and replacements and whether the reserves are in a statutory reserve account.

12. Fees on new units – a description of any provisions exempting the declarant or modifying the declarant’s obligation to pay condo maintenance fees on unsold units during the declarant control. Declarant control refers to that period of time when the declarant exercises the powers and responsibilities of the association while construction is completed and new units are sold (up to 10 years for expandable condominiums, up to three years for other projects).
13. Amendments – an indication that a unit purchaser’s rights and responsibilities may be altered by amendment of the declaration or bylaws, and a description of the amendment process.
14. Other restrictions or features – at the option of the declarant or association, a description of other restrictions or features of the condominium.

The executive summary is used in two separate ways in condominium transactions:

1. The executive summary is placed in the condominium disclosure materials directly following the index.
2. A copy of the executive summary must be attached as an addendum to the real estate condition report (RECR).

Preparation Responsibility: The declarant or the association (whichever is in control) is responsible for preparing the executive summary and revising it whenever a change in the underlying disclosure materials necessitates a corresponding revision to the executive summary, per Wis. Stat. § 703.33(1m). Real estate licensees and sellers should not attempt to prepare the executive summary—that is the association’s responsibility.

Initial Applicability: The use of the executive summary in the condominium disclosure materials and as an addendum to the RECR is mandatory for condominiums created on or after May 1, 2005 in transactions scheduled to close on or after May 1, 2005. For condominiums created before May 1, 2005, use of the executive summary in the condominium disclosure materials and with the RECR is mandatory in transactions scheduled to close on or after June 1, 2006.

Facilitating Implementation: Once the use of the executive summary becomes mandatory, associations that do not have an executive summary prepared may delay the availability of a current set of the condominium disclosure materials and impede the seller’s ability to properly complete a RECR by attaching a copy of the executive summary. Association directors, officers or attorneys are welcome to use the executive summary form (Appendix pages 16-19) on the WRA Web site (www.wra.org/condolaw) (Appendix page 35) as a quick or relatively easy way to prepare an executive summary or as an outline or roadmap to preparing a customized executive summary.

Enforcement: If an association does not provide an executive summary for the RECR and the disclosure materials, unit owners will pressure the association to comply, especially when sellers are at risk of having purchase contracts rescinded.

Reliability: Upon the date of initial applicability above, the second paragraph of the boldface notice on the cover sheet for the condominium disclosure materials is revised to provide:

2. THESE DISCLOSURE MATERIALS GIVEN TO YOU AS REQUIRED BY LAW MAY, WITH THE EXCEPTION OF THE EXECUTIVE SUMMARY, BE RELIED UPON AS CORRECT AND BINDING. FOR A COMPLETE UNDERSTANDING OF THE EXECUTIVE SUMMARY, CONSULT THE DISCLOSURE DOCUMENTS TO WHICH A PARTICULAR EXECUTIVE SUMMARY STATEMENT PERTAINS. ORAL STATEMENTS MAY NOT BE LEGALLY BINDING.

Small Condominiums. An executive summary may not be required as part of the disclosure materials for a “small condominium” (no more than 12 units), depending upon the elections made in the declaration [Wis. Stat. § 703.365 (1) & (8)].

II. REAL ESTATE CONDITION REPORT

A. Chapter 709 Disclosures By Owners Of Residential Real Estate

Wisconsin Statutes Chapter 709 generally applies to all persons who sell or otherwise transfer Wisconsin real estate containing one to four dwelling units. A dwelling unit is defined as a structure or a part of a structure that is presently used or is intended to be used in the future as a home, residence or sleeping place by a person or by two or more persons maintaining a common household. Dwelling units include condominium units. Chapter 709 does not apply to (1) personal representatives, trustees, conservators and other fiduciaries appointed by or subject to supervision by the court (this does not include powers of attorneys), but only if those persons have never occupied the property; (2) real estate which has not been inhabited, e.g. new construction; and (3) transfers exempt from the real estate transfer fee, e.g. between spouses, foreclosures, probate transfers, etc.

All sellers subject to Chapter 709, whether broker-assisted or selling “for-sale-by-owner” (FSBO), must complete a Chap. 709 Real Estate Condition Report (RECR) or risk rescission of the offer to purchase. The deadline for the seller's RECR is ten days after acceptance of the offer. A sample of a RECR appears on pages 26-27 of the Appendix.

1. Seller Completion of RECR

The RECR is not a warranty but rather a statement of the seller's knowledge and awareness of the property offered for sale. When the seller completes the RECR, the seller is indicating whether the seller has notice or knowledge of the listed property conditions. A "defect," as used in the RECR, means a condition that would have a significant adverse effect on the value of the property; that would significantly impair the health or safety of future occupants of the property; or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.

For example, if the seller is listing a property where there had been fire damage to the siding but the siding had been replaced and painted. Whether the seller discloses information about the fire, the resulting fire damage and subsequent repairs will be a determination made by the seller or the seller with the assistance of legal counsel. Some sellers and their attorneys are reluctant to disclose past defects that have presumably been repaired and eliminated. Buyers and their attorneys, on the other hand, are often more comfortable when the past defect is disclosed, along with information about the repairs made, so that they at least have the opportunity to investigate and confirm elimination of the problem for themselves.

If the property to be transferred is a condominium unit, the RECR must be completed with respect to the condominium unit, the common elements of the condominium and any limited common elements that may be used exclusively by the condominium unit owner (Wis. Stat. § 709.03).

2. Buyer Rescission

If a completed RECR is given to the buyer before he or she submits an offer to purchase, there will be no buyer rescission rights. If a buyer receives a RECR that discloses a defect, as defined in the RECR, after the buyer submitted an offer to purchase, the buyer may rescind the contract. A buyer can also rescind if he or she receives a RECR that is incomplete or incorrectly asserts that an item is not applicable, or if the RECR is not received within 10 days of acceptance. A buyer may not, however, rescind an offer based upon a defect disclosed in a RECR, if the buyer was aware, or had written notice, of the nature and extent of the defect at the time the offer was submitted to the owner or owner's agent.

A buyer's rescission must be in writing and delivered to the seller or the seller's agent within two business days after the buyer or the buyer's agent receives the RECR, or within two business days after the RECR was due.

B. Condominium Addendum to Real Estate Condition Report -- § 709.02(2)

The new condominium addendum supplements the RECR. The seller completes the condominium addendum to the RECR with very basic information that a unit owner should readily know, including the unit address and description, contact information for the seller or the listing agent, association management information, and budget and condo maintenance fee information. The condominium addendum to the RECR also instructs the seller to attach a copy of the executive summary to the RECR.

Initial Applicability: While the use of the condominium addendum to the RECR is mandatory beginning with transactions where the offer to purchase is accepted on or after November 1, 2004, attachment of a copy of the executive summary will not be required until later on. The use of the executive summary as an addendum to the RECR is mandatory for condominiums created on or after May 1, 2005 in transactions scheduled to close on or after May 1, 2005. For condominiums created before May 1, 2005, use of the executive summary with the RECR is mandatory in transactions scheduled to close on or after June 1, 2006.

Form: A Condominium Addendum To Real Estate Condition Report form appears on pages 28-29 of the Appendix. This addendum is a one-page form, printed with a plain language explanation of some basic condominium terminology on the reverse side.

III. WB-14 RESIDENTIAL CONDOMINIUM OFFER TO PURCHASE

A. Condominium Disclosure Materials

The WB-14 Residential Condominium Offer to Purchase (Appendix pages 20-25) is the form approved by the Wisconsin Department of Regulation and Licensing for use by real estate licensees. The offer reminds the seller and buyer of their obligations with respect to the condominium disclosure materials at lines 81-94:

■ CONDOMINIUM DISCLOSURES: Seller agrees to provide Buyer with complete, current and accurate copies of the condominium disclosure materials required by Wisconsin Statute §703.33. The condominium disclosure materials are required to be delivered to Buyer no later than 15 days prior to closing. The condominium disclosure materials include copies of the condominium declaration, bylaws, rules and regulations, together with an index of contents, articles of incorporation, management contracts, current year's association budget (including reasonable details concerning monthly assessment charges and charges for rental of facilities), latest annual association operating statements, leases to which unit owners will be a party, description of any contemplated expansion of condominium, the unit floor plan with information necessary to show location of common elements and other facilities available to unit owners, and any amendments to any of these (except as limited for small residential condominiums

per Wis Stat. §703.365). If the condominium was an occupied structure prior to the recording of the condominium declaration, it is a "conversion condominium" and the "condominium disclosure materials" also include: 1) a statement based on an engineer's or architect's report describing the present condition of structural, mechanical and electrical installations; 2) a statement of the useful life of the items covered in 1), unless a statement that no representations are being made is provided, and 3) a list of notices of code or other municipal violations, including an estimate of the costs of curing the violations. These materials are available at cost from the condominium association. As provided in Wisconsin Statutes §703.33(4), Buyer may, within five business days after receipt of these documents, including any material modification thereto, rescind this Offer by written notice mailed or delivered to Seller, the date of mailing or actual delivery being the effective date of notice.

This section accurately describes the statutory requirements except for the suggestion that the latest annual association operating statements must be provided, a desirable bonus but not legally required.

B. Additional Condominium Issues

The WB-14 Residential Condominium Offer to Purchase (Appendix pages 20-25) also suggests, at lines 95-103, other useful information that a buyer may want to request from the seller.

■ **ADDITIONAL CONDOMINIUM ISSUES:** In addition to review of the disclosure materials required to be provided by Wisconsin Statute §703.33, Buyer may wish to consider reviewing other condominium materials as may be available, such as: copies of the condominium association's financial statements for previous years, the minutes of previous unit owner's meetings, the minutes of condominium board meetings during the months prior to acceptance, copies of the association's certificate of insurance, a statement from the association indicating the balance of reserve accounts controlled by the association, a statement from the association of the amount of any unpaid assessments on the unit (per Wis. Stats. §703.16(5)) and the declaration and bylaws of the master association, if any. Contingencies for review and approval of those additional materials which may be available may be provided for in additional contingencies per lines 157-163, or in an addendum per line 347. Because not all of these materials may exist or be available from the condominium association, Seller may wish to verify availability prior to acceptance if the Offer is contingent upon Seller providing these materials to Buyer.

1. Association Financial Statements

Association financial statements will give the buyer an overall picture of association finances and may show reserve account balances.

2. Meeting Minutes for Unit Owners and Directors' Meetings

Association meeting minutes (if any) provide insight into the operation of the association, current association issues and business, and upcoming maintenance projects and any resulting planned special assessment against the unit owners.

3. Association Certificate of Insurance

The association insurance certificate alerts the unit buyer – and his or her insurance agent -- to the insurance coverage provided by the association so that the buyer can secure insurance for the unit that does duplicate association coverage or leave any gaps in coverage.

4. Reserve Account Statements

a. Statutory Reserve Account Statement

Wis. Stat. § 703.163(1)(c) defines a statutory reserve account statement as “a statement indicating whether a statutory reserve account has been established for a condominium and, if there is no statutory reserve account, how it is anticipated that future expenditures for the repair and replacement of common elements will be funded.” Per Wis. Stat. § 703.136(11), each statutory reserve account statement shall be recorded with the register of deeds of the county where the condominium instruments are recorded. It may be necessary to ask the title company to report on any recorded statutory reserve account statements because the title companies may not include these statements in the title commitment, reasoning that it does not affect title to the unit. A sample Statutory Reserve Account Statement form appears on page 32 of the Appendix.

b. Declarant's accrued reserve assessments -- § 703.163(3)(b)

If the declarant of a condominium created on or after November 1, 2004 does not opt out of a statutory reserve account, reserve fund assessments may first be assessed on a unit once certificate of occupancy for that unit has been issued. The declarant may elect to defer payment of unit accrued assessments until the unit is sold, provided that the declarant may not defer payment of accrued reserve fund assessments for more than five years from the date that the exterior construction of the building in which the unit is located is completed.

The declarant is liable for all reserve fund assessments on a unit that accrue before the unit is conveyed. If there are unpaid deferred reserve fund assessments against a unit, the declarant must disclose in writing to the unit buyer

if the declarant has included deferred reserve fund assessments in the purchase price or, if not included, how any accrued assessment will be paid.

c. Reserve Account Balances

The buyer may request that the seller provide information regarding any reserve account balances if this information is not included in the association financial statements.

5. Association Statement Regarding Unpaid Unit Assessments

Wis. Stat. § 703.165(4) provides that a prospective unit buyer is entitled to a statement from the association stating the amount of any unpaid assessments against the seller. The buyer is not liable for, nor shall the unit conveyed be subject to an assessment lien for, any unpaid assessment against the seller in excess of the amount set forth in the statement. If a statement of unpaid assessments is not provided within 10 business days of the buyer's request, the association cannot enforce any assessment lien filed before the buyer's request for the statement.

6. Master Association Declaration and Bylaws

The buyer may request a copy of any documents relative to any master association (Wis. Stat. § 703.155) that exercises powers over the unit owners of the condominium where the offer being purchased is located.

7. Document Review Contingency

The following is a sample of an offer to purchase contingency requesting additional documents pertaining to a residential condominium unit purchase.

DOCUMENT REVIEW CONTINGENCY: This Offer is contingent upon Seller delivering the following documents to Buyer within ___ days of acceptance:
[CHECK THOSE THAT APPLY]

- Association financial statements for the current year and for the prior two years.
- Meeting minutes for unit owners and directors' meetings for the past year.
- Current association certificate of insurance
- Copy of most recent Statutory Reserve Account Statement
- Association statement showing all current reserve account balances.
- Declarant statement explaining how any deferred reserve account payments will be made
- Association Statement Regarding Unpaid Unit Assessments per Wis. Stat. § 703.165(4)
- Copy of any master association declaration and bylaws

Other: _____

Other: _____

This contingency shall be deemed satisfied unless Buyer, within _____ days of the earlier of receipt of the final record to be delivered or the deadline for delivery of the documents, delivers to Seller a written notice indicating that this contingency has not been satisfied. The notice shall identify which document(s) have not been timely delivered or do not meet the standard set forth for the document(s).

C. Property Conditions Not Disclosed in the Real Estate Condition Report

The WB-14 Residential Condominium Offer to Purchase (Appendix pages 20-25), at lines 51-80, requires the seller to disclose if any of a series of property conditions is present if they have not already been disclosed in the RECR:

PROPERTY CONDITION PROVISIONS

■ **PROPERTY CONDITION REPRESENTATIONS:** Seller represents to Buyer that as of the date of acceptance Seller has no notice or knowledge of conditions affecting the Property or transaction other than those identified in Seller's Real Estate Condition Report dated __, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer by reference [COMPLETE DATE OR STRIKE AS APPLICABLE] and _____ [INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT].

■ A "condition affecting the Property or transaction" is defined as follows:

- (a) planned or commenced public improvements by government authorities or the homeowner's or condominium association which may result in special assessments or otherwise materially affect the Property or the present use of the Property;
- (b) completed or pending reassessment of the Property for property tax purposes;
- (c) government agency, court, homeowner's or condominium association order requiring repair, alteration or correction of any existing condition related to the Property;
- (d) construction or remodeling on Property for which required state or local permits had not been obtained;
- (e) any land division involving the subject Property, for which required state or local approvals had not been obtained;
- (f) violation of applicable state or local smoke detector laws; **NOTE: State law requires operating smoke detectors on all levels of all residential properties.**
- (g) any portion of the Condominium being in a 100 year floodplain, a wetland or a shoreland zoning area under local, state or federal laws;
- (h) that a structure on the Property is designated as a historic building or that any part of Property is in a historic district;
- (i) structural inadequacies which if not repaired will significantly shorten the expected normal life of the Condominium;
- (j) mechanical systems inadequate for the present use of the Condominium;
- (k) insect or animal infestation of the Condominium;

(l) conditions constituting a significant health or safety hazard for occupants of Property;
Note: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential properties built before 1978.

(m) underground or aboveground storage tanks on the Condominium for storage of flammable or combustible liquids including but not limited to gasoline and heating oil which are currently or which were previously located on the Condominium; **NOTE: Wis. Adm. Code, Chapter COMM 10 contains registration and operation rules for such underground and aboveground storage tanks.**

(n) material violations of environmental laws or other laws or agreements regulating the use of the Condominium;

(o) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Condominium;

(p) other conditions or occurrences which would significantly reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

Lead-Based Paint Disclosures

The federal rules implementing Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X, require disclosure of information on lead-based paint (LBP) and lead-based paint hazards before the sale of housing built before 1978 (target housing). As of December 6, 1996, no offers on residential housing built prior to 1978 can be accepted without first complying with the LBP disclosure rules in 24 CFR Part 35 and 40 CFR Part 745.

1. Sellers must disclose known LBP and LBP hazards and provide available reports to buyers.
2. Sellers must give buyers the pamphlet, developed by EPA, HUD and the Consumer Product Safety Commission (CPSC), titled *Protect Your Family from Lead in Your Home*.
3. Homebuyers must be given a 10-day opportunity to conduct a LBP inspection or risk assessment at their own expense. The parties may negotiate a contingency providing for the LBP inspection/risk assessment
4. Sales contracts must include certain notification and disclosure language.
5. Sellers and real estate agents share responsibility for ensuring compliance.

The LBP disclosures, LBP inspection/risk assessment contingency, mandatory LBP warning language, and certifications and acknowledgments by the seller, buyer and real estate agents are typically included on an addendum to the offer to purchase.

Under the federal LBP disclosure rules, the disclosure responsibility rests with the unit owner if the unit was built before 1978. This responsibility includes disclosure of information concerning unit and the common areas – common elements and limited common elements. LBP information, particularly regarding common areas, may not be in the hands of the individual owners. In such cases, unit owners may arrange for disclosure

of information through the association. In no instance should information held by the association be withheld, as it is considered known information held by the individual owners or reasonably obtainable by the owners, i.e. the association simply holds such information for the benefit of the unit owners and in no way does this representative arrangement shield the individual owners from disclosure responsibility.

Note that this LBP disclosure requirement is independent of the RECR law. Whereas a seller risks buyer rescission under Chapter 709 of the Wisconsin Statutes for a failure to deliver the RECR, the penalties for noncompliance with the LBP law are federal and apply not only to the seller, but also to the real estate agents involved in the transaction who must ensure compliance. LBP enforcement may include civil and criminal penalties of \$10,000 per violation, and potential treble damages in a private cause of action brought by persons sustaining LBP poisoning or other related injuries.

LBP Resources

- ◆ EPA: <http://www.epa.gov/lead/leadbase.htm>
- ◆ Compilation of state and federal LBP resources: www.wra.org/LBP

IV. OTHER BUYER INFORMATION

A. Residential Condominium Concepts

A two-page handout explaining condominium terminology in plain language appears at pages 30-31 of the Appendix.

B. Condominium Purchase Checklist

A two-page checklist for condominium buyers appears on pages 33-34 of the Appendix. This is handy for buyers and their attorneys to try to make sure that the buyer has all of the information that they to understand the condominium unit purchase they are about to make.

V. INVITATION TO WRA WEB SITE

All attorneys watching this seminar are invited to explore the Wisconsin REALTORS[®] Association Web site on a limited term guest pass. While much of the information on the WRA Web site is open to the public, some areas, primarily information and publications from the Legal Department, are security-locked. Our current

Legal Guest username is: legal and the password is: guest. These guest pass privileges will expire on December 31, 2004. A description of our Legal Section Member Services & Benefits may be found at http://www.wra.org/membership_info/Legal_membership/legal_member.htm.

Mandatory Effective Dates	
November 1, 2004 is the overall effective date for the Condominium Law revisions, but some provisions and forms that have their own deadlines and effective dates:	
Form/Provision	Effective Date/Deadline
Condominium Addendum to the RECR	Transactions where the offer is accepted on or after November 1, 2004
Executive Summary	<ul style="list-style-type: none"> ◆ May 1, 2005, for condominiums created on or after May 1, 2005 ◆ For condominiums created before May 1, 2005, the Executive Summary must be used in transactions scheduled to close on or after June 1, 2006
New Procedure for Missing Disclosure Materials	Transactions closing on or after November 1, 2004
Statutory Reserve Account Statement	November 1, 2004 for new condominiums, existing condominiums have until May 1, 2006