

Revised Real Estate Condition and Disclosure Reports

The WRA has revised the Real Estate Condition Report (RECR), Vacant Land Disclosure Report (VLDR), Real Estate Condition Report — Farm (RECR-Farm), and Seller Disclosure Report — Commercial (SDR-Commercial). The forms will be available in Transactions (zipForm Edition) and the WRA's subscription-based PDF Forms Library for use as of July 1, 2023.

The statutory requirements for the Wis. Ch. 709 real estate condition report and vacant land disclosure report have not changed, but the WRA's versions of these forms have been updated to include additional disclosures that have become important in transactions.

MANDATORY AND OPTIONAL CONDITION AND DISCLOSURE REPORTS

Sellers of property that includes one to four dwelling units must complete a RECR. Sellers of property that does not include any buildings have to complete a VLDR. Personal representatives, trustees, conservators and fiduciaries appointed by or subject to the supervision of a court are exempt but only if those individuals have never occupied the property. A personal representative who occupied the property, even if the occupation was many years ago, is not exempt from completing the report.

The RECR-Farm is unique in that satisfies the statutory requirements for property including one to four dwelling units, such as a farmhouse, but also incorporates provisions from the VLDR such as whether there are out-of-service wells or cisterns on the property that need to be abandoned or that were not closed or abandoned according to applicable Department of Natural Resources code provisions. Additionally, it incorporates information about livestock siting violations or noncompliance with fence laws. A farm seller using this form will comply with the seller's statutory

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disclosure obligations but will also have the opportunity to disclose farm-specific issues.

Commercial sellers are not obligated to complete a report, but the WRA has created the optional SDR-Commercial form for commercial sellers who want to complete a report. Because the SDR-Commercial is not a required form, the WRA has a bit more freedom in how that form looks and is



formatted. If a licensee is looking at the RECR and VLDR and is wondering why some language is italicized and other language is not, the language in italics is something the WRA has added beyond what is required in the statute. Because the SDR-Commercial does not have to meet any statutory requirements as an optional disclosure, the WRA does not need to format it in the same way, and any language added to it can be in regular typeface and not in italics.

REALTOR® PRACTICE TIP

Remember that regardless of the type of property, a licensee who is listing a property is required to inspect the property prior to listing. The licensee is also required to ask the seller to comment on the condition of their property and ask that they comment in writing. Even if the seller is exempt from completing any sort of condition or disclosure report, the licensee still must ask the seller to comment on the condition of the structure, mechanical systems and other relevant aspects of the property as applicable.

See more about inspection and disclosure duties in Wis. Admin. Code § 24.07: docs.legis.wisconsin.gov/code/admin_code/reb/24/07/1/b

REVISED SECTIONS

Solar panels and systems

Language prompting a seller to disclose if they are aware of defects in solar panels and systems has been added to the WRA RECR, RECR-Farm and SDR-Commercial. In the RECR and the RECR-Farm, this language is in italics. In the SDR-Commercial, this language is in regular typeface.

Water treatment systems with examples

Language prompting a seller to disclose if they are aware of rented water treatment systems has been added to the existing question about rented water softeners or other

water conditioning systems in the RECR and RECR-Farm. Additionally, examples of water treatment systems including reverse osmosis, iron filters and other filters have been added after that question to help sellers and buyers better understand what might constitute a water treatment system. The additional examples as well as the addition of water treatment systems to the question will appear in italics.

Infestations impacting trees

The RECR, VLDR, RECR-Farm and SDR-Commercial all had existing language about animal, reptile or insect infestations. Those existing questions have all be updated to include “including infestations impacting trees.” This language will appear in italics in the respective versions of the questions regarding infestations, except for the SDR-Commercial where that language will appear in regular typeface. Infestations impacting trees was included in part to prompt sellers to disclose issues related to the emerald ash borer; but it is not limited to just that insect as various types of insects, including moths and other types of borers, can cause problems with trees.

Other homeowners associations

The RECR, VLDR and RECR-Farm all had existing language prompting a seller to disclose if they were aware of the property being subject to a “subdivision homeowners’ association.” Each instance of that question now includes in italics “or other homeowners’ association” to prompt disclosure of other associations such as associations that do not extend to the whole subdivision.

Private road or shared driveway agreements

The RECR, VLDR, RECR-Farm and SDR-Commercial all contain a new question prompting the seller to disclose if they are aware of any private road agreements or shared driveway agreements relating to the property. The new question will appear in each form in italics, except for the SDR-Commercial where it will appear in regular typeface. This question is designed to prompt the seller to disclose if these agreements exist. Ideally these agreements would be recorded and thus part of the public record, but that is not always the case.



Riparian rights and navigable waterways

The RECR, VLDR, RECR-Farm and SDR-Commercial all included a question prompting a seller to disclose if the seller was aware of a written agreement affecting riparian rights related to the property. A subsequent question prompted the seller to disclose if the seller was aware that the property abutted the bed of a navigable waterway that is owned by a hydroelectric operator. Those questions remain the same in all the disclosure and condition reports, but they all appear in regular typeface where they were in italics previously in some of the reports.

Renumbering

Each of the reports had some minor changes to the numbering of certain questions, mostly in the sections related to land use. This renumbering did not affect the substance of the questions.

Internet service

Each report now includes a new question about internet service. For the RECR, RECR-Farm and SDR-Commercial, the question is stated as, "Does the property currently have internet service?" The seller is then prompted to indicate who the provider is. In the VLDR, the question is stated in a more speculative manner given it is vacant land. In the VLDR, the question is stated as, "Are you aware if there is internet service to this property?" And then further, the seller is asked, "If so, which provider?" These internet questions will appear in italics in the RECR, VLDR, RECR-Farm and regular typeface in the SDR-Commercial.

Electric vehicle charging station

The RECR, RECR-Farm and SDR-Commercial now include some questions about electric vehicle charging capabilities. Specifically, the seller is prompted to answer, "Does the property have an electric vehicle charging system and station or installed wiring for a future system or station?" The seller is further prompted to answer where the system or station is affixed to the property. These questions will be in italics in the RECR, RECR-Farm and in regular typeface in the SDR-Commercial.



Accessibility features

The RECR, RECR-Farm and SDR-Commercial all include some version of a question about accessibility features on the property. For both the RECR and RECR-Farm, the question is, "Does the property have accessibility features? If so, attach an Accessibility Features Report. (See www.wra.org/Disabilities)." This question will be in italics in both reports. The question is phrased similarly in the SDR-Commercial but will not be in italics and does not prompt the seller to complete an Accessibility Features Report and includes a website link for the Americans with Disabilities Act.



Rights of first refusal

The VLDR, RECR and RECR-Farm all have a new question prompting the seller to disclose if they are aware of a right of first refusal, whether recorded or not, on all or any portion of the property. Like shared driveway or private road agreements, ideally rights of first refusal are recorded, but that is not always the case so including a question about it will hopefully prompt a seller to disclose the existence of one. This question will be italics in all three reports. The SDR-Commercial also includes a question about a right of first refusal but the question appears in regular typeface.

REALTOR® PRACTICE TIP

Licenses do not draft rights of first refusal. There is no state-approved form for the agreement, and anyone inquiring about having one created or their rights under one should be referred to an attorney.

CONCLUSION

These changes may seem small, but they are important. With the ever-expanding practices related to remote work and education, knowing the internet capabilities at a property might influence price and a buyer's decision-making process. Similarly, as more and more people move to electric vehicles, prompting a seller to disclose whether there are capabilities could attract buyers for whom that feature is important. The changes to these reports were largely driven by member feedback as well as watching what is happening in other states.

