

City Different Realty  
1709 Paseo de Peralta  
Santa Fe, NM 87501

**CHECKLIST & DISCLOSURES**

The following items are matters which may affect real estate in Santa Fe County. This list is intended to be a helpful reminder of issues that may develop in the process of the purchase or sale of real property. It is not intended; however, to be a comprehensive list as rules, forms and practices regularly change. It is recommended that you retain the services of property inspectors, surveyors, legal or tax advisors and other professionals to satisfy yourself as to any and all aspects of the property and the relevance of the issues listed below.

City Different Realty and its Brokers are trained in the marketing of real estate. The Brokers are not trained or licensed to provide professional advice regarding the physical condition of any property or regarding legal or tax matters.

1. **Inspection of Property.** All material information which is provided to your Realtor regarding the condition of the applicable property will be disclosed to you. You are advised to have the property inspected by appropriate experts. If you choose to waive an inspection you will need to sign a waiver. HUD-92564-CN

2. **Environmental Issues.** Properties should be reviewed for potential and existing contaminants, including but not limited to lead paint, asbestos, radon and mold. Additionally, those purchasing commercial properties should consider having a "Phase I" or "Phase II" environmental inspection performed. RANM Form 2309, "Mold General Information." [www.epa.gov/asbestos](http://www.epa.gov/asbestos), [www.epa.gov/radon](http://www.epa.gov/radon), [www.epa.gov/lead](http://www.epa.gov/lead), <http://www.epa.gov/mold>

3. **Entran II.** Certain homes in Santa Fe have been constructed with radiant heating systems which utilize Entran II tubing. Some homes have experienced failure of the Entran II product over time and there has been a class action lawsuit in many states including New Mexico. [www.meas-spec.com/myMeas/default/index.asp](http://www.meas-spec.com/myMeas/default/index.asp) and [www.entranIIsettlement.com](http://www.entranIIsettlement.com)

4. **Septic systems.** Consult the New Mexico Environment Department about new Liquid Waste Regulations adopted April 6, 2005. There are changes to minimum lot sizes based on groundwater depth; property transfers require inspections by Certified Inspectors so that permits may be transferred to new owners. To apply for a septic permit for an undeveloped lot, request a Letter of Determination from the NMED in which the NMED will determine the type of septic system required. NMED home page: [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us). For permit application forms: <http://www.nmenv.state.nm.us/fod/LiquidWaste>

**5. Water.** Buyer is advised to consult with appropriate professionals and authorities regarding the source, quality and availability of water. Certain properties have private water rights that may need to be transferred by deed. If a well has yet to be drilled, inquire at the State Engineer's Office for records of nearby wells. The New Mexico Environment Department has records of the quality of water in adjacent areas. [www.ose.state.nm.us](http://www.ose.state.nm.us), [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us) .

**6. County Water Restrictions.** Much of the land in the county has water usage restrictions based on groundwater hydrologic mapping of the county, especially lots created since 1981. A search of the pertinent title documents and/or survey plat should reveal any such restrictions. Contact the Santa Fe County Land Use Department: [http://www.co.santa-fe.nm.us/departments/land use](http://www.co.santa-fe.nm.us/departments/land_use)

**7. Private Water Systems.** Some private water systems do not have the water rights necessary for the completion of all construction in the subdivision. Private water systems can provide buyer and seller with documentation of the number of water rights owned by the system, the water quality inspections required by the State of New Mexico, and the kind of water pressure that will be available to the property. RANM form 2308.

**8. Wells.** With an existing well, a buyer may want to have the water tested for possible contaminants as well as the yield or gallons per minute which the well will deliver. A change of ownership of water rights form should be completed and submitted to the State Engineer's Office and recorded in the applicable county. RANM form 2308

**Domestic Well Regulations.** New Domestic Well Regulations took effect on August 15, 2006. The major changes were as follows: 1) domestic household usage decreased from three-acre feet to one-acre feet (if owner obtained a permit and drilled a well before 8/15/06, then that well is grandfathered in); 2) developers can obtain a permit for a domestic well on re-sale property which allows them to use water until the home is sold (when the home is sold, the owner must provide the buyer with a notice in writing of the requirement to file a change of ownership form with the state engineer. A copy of the notice must be filed with the state engineer along with a copy of the deed or other instrument of conveyance for the land upon which the domestic well is located); and 3) the application fees for a domestic well increased from \$5.00 to \$125.

For wells serving multiple households, the permit holder is required to provide notice to the state engineer: the number of households being served by the well, the owner's contact information for each household being served by the well, and a description of the legal lot of record for each household being served. The permit holder may also file a copy of the well-share agreement. Metering is still required for wells serving more than one household.

Regulation 19.27.5.12 requires the new owner of a property with a domestic well to file a change of ownership with the state engineer in accordance with 72.1.2.1 The form must contain all information conforming to water rights of record filed with the state engineer and must be accompanied by a copy of a warranty deed or other instrument of conveyance.

**9. Water-related Lawsuits.** There are at least three lawsuits pertaining to property in Santa Fe County. These are (1) the "Aamodt" lawsuit pertaining to water rights in northern Santa Fe County. [www.ose.state.nm.us](http://www.ose.state.nm.us); (2) the Eldorado lawsuit pertaining to water in the Eldorado area ([www.Eldoradowaterdistrict.com](http://www.Eldoradowaterdistrict.com) ); and (3) a lawsuit pertaining to water in the Galisteo Basin area. Obtain an understanding of what these lawsuits may mean to your property.

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10. **Mountain Special Review District.** Certain areas are designated Mountain Special Review District and have additional restrictions regarding water and construction on slopes. A seller in such areas and the seller's agent are required to disclose the following: "Water supply in the Mountain Special Review District may be limited and is not dependable and properties within this District are subject to enhanced risk of fire."

11. **Title Insurance.** Title insurance does not insure that a property complies with zoning or land use regulations. You should determine if the property complies with all applicable zoning ordinances (including, but not limited to escarpment ordinances), laws, regulations, covenants and restrictions and if lot is a legal lot of record (see item 13). Title insurance will insure general access to a property, but not a specific access. It is recommended that any private access be specifically insured by the title company.

12. **Title Policy Exceptions.** Buyers can obtain greater protection under a title insurance policy by requesting that standard exemptions 1-4 (liens, survey, easements and rights of parties in possession) be deleted from the title insurance policy. These deletions can be paid for by buyer or seller and can be a matter of negotiation in the Purchase Agreement.

13. **Legal Lot of Record.** In order to obtain a building permit, a lot must be a legal lot of record. Lots created after 1/18/62 in the city, and after 1/1/80 in the county, must have appropriate city and county signatures of approval on the plat in order to be legal lots of record. Prior to these dates, lots created by deed or plat are grandfathered in as legal lots. In New Mexico, title insurance does not cover government regulations and does not insure the legality of lots.

14. **Prescriptive Rights.** The property should be inspected for any evidence of trails, roadways or pathways. Trails, roadways or pathways utilized for a period of ten (10) years or more may create prescriptive rights of other to use the property.

15. **Neighborhood.** It is recommended that you review the existing and potential development in your neighborhood as it relates to noise, traffic, views, access and safety (including, but not limited to disclosures made under any sexual offenders laws). Commercial nodes may be constructed under certain circumstances in residential areas. If homeowner's association covenants and restrictions exist, the buyer needs to review and understand them. Many covenants require the buyer to build at least a minimum square footage, restrict architectural styles, restrict location of the building site, and may not allow a guest house.

16. **Utilities.** Buyer must verify availability of utilities such of natural gas, electricity, city water, cable, phone service, and high speed internet access. The appearance of telephone boxes, cable boxes, transformers, junction boxes, etc. in the home, land or neighborhood should not be taken as proof that these services are available.

17. **Drought, Fire, and Bark Beetles.** Santa Fe County is currently experiencing a prolonged drought. As a result of the drought, bark beetles have killed drought-stressed trees. The dead and dying trees may cause a fire hazard. [www.santafetrees.com](http://www.santafetrees.com)

18. **WIPP Route.** Certain roads (which include but may not be limited to: Highway 285, Highway 599, and Interstate 25) through Santa Fe County and City are designated as routes for the carrying of nuclear waste to the Carlsbad repository.

19. **Real Estate Taxes.** The County and City of Santa Fe may attempt to retroactively assess real estate taxes if they have not been paid or assessed.

20. **Water Utility Payments.** If the property is served by Sangre de Cristo Water Company, which is owned by the City of Santa Fe, seller should provide proof, prior to closing that water bills have been paid. The City can file a lien against the property for unpaid water utility charges. Check with the title company to see how they will handle this prior to closing.

21. **Professional Advice.** You are encouraged to consult an attorney, accountant, or advisor of your choice about the tax consequences, title issues, any other aspect of the purchase or sale.

**This checklist is provided for informational purposes only and is not intended to constitute a binding document.**

I (We) acknowledge receipt of "Checklist & Disclosures."

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

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

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