

17 December 2009

To: All Realtors[®] doing business in Northstar

From: John Falk, Legislative Advocate

Re: *Newly enacted wildfire prevention disclosure at-sale ordinance*

Bottom Line at the Top: The Northstar Community Service District (NCSD) has adopted Fire Ordinance No. 26-09, requiring that sellers of real property in the NCSD service area provide buyers with information regarding the standing requirement to create and maintain Defensible Space on-site. On 21 October 2009, the NCSD Board of Directors held the second and final reading of the proposed ordinance, and approved it by a unanimous five-to-zero (5 yeas – 0 nays) vote. The pertinent part of Ord. 26-09 can be found in Section 8, "Disclosure Required Prior to Close of Escrow." The approved Defensible Space Ordinance revision formally takes effect 30 days post-approval. However, the document required to be utilized to fulfill the information dissemination mandate remained in development well past the 20 November 2009 effective date. The info brochure/pamphlet with signature sheet only became available as of yesterday (Wed. 16 Dec. 2009). This disclosure requirement is to be met via the distribution of the Northstar Fire Protection District's "Defensible Space Pamphlet." To comply with this information outreach mandate, the Sellers and Buyers of any real property in Northstar are to sign the detachable portion of the pamphlet, which formally acknowledges that they have received this information, and return it (by mail or in person) to the Northstar Fire Department prior to the close of escrow. Importantly, this is an ordinance information outreach program, **not** a requirement to obtain certification or perform remediation prior to sale. Also of importance to the real estate professional from a risk management perspective, this is a seller's and buyer's requirement, not a direct mandate that the Realtor[®] perform this duty. Nevertheless, to facilitate your understanding of the issue, I have posted the pertinent documents to the Board's website. If you go on-line and visit the TSBOR/TSMLS website you will find the core documents. These items are located on the Local Government Relations Committee page, in the PDF library, under the **category "Northstar Fire Defensible Space"**.

Documents Available on TSBOR/TSMLS website:

- (1) Defensible Space Info Pamphlet w/signature return
- (2) Northstar Fire AllowRight to Access Res Prop form
- (3) NCSD Ord. No. 26-09
- (4) DefensibleSpace Contractor List 2009
- (5) Gen Guidelines for DefensibleSpace

For additional information, or to obtain hard-copies of these documents, please **contact-**

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Background: Californians have been long been painfully aware of the costs associated with catastrophic wildfire; “costs” in terms of lost natural resources, environmental degradation, persons displaced or left homeless, destruction of items of sentimental value to a family, financial losses when homes or businesses burn, and the greatest cost of all, the loss of life. State officials have put in place a series of code requirements over time to reflect the latest in fire prevention technology and strategies. Most relevant at this point in time are the Cal. Public Resource Code (PRC) 4291-4299, and the California Code of Regulations (CCR) 1299 code guidelines.

Wildfire suppression and prevention are long-standing objectives of Northstar Fire and the Community Service District. A few milestones in this local effort include: In August of 2000, the Northstar CSD Board of Directors adopted Ord. 4-00, intended to address the State of California’s designation of the Northstar area (and the surrounding region) as a “very high fire severity zone.” In January of 2008, NCSO adopted Ordinance No. 25-08, which served to adopt the State of California Fire Code of 2007. Most recently, in October of this year (2009) the CSD amended Ord. 4-00 with the introduction of Ord. 26-09, involving the information outreach addition of a disclosure requirement at-sale. While the focus of this broadcast to the general membership is to highlight the recently adopted disclosure requirement, it is important to note that this action is predicated on the aggressive and appropriate Universal Requirement that all residential and commercial properties in Northstar, developed or undeveloped, apply Defensible Space measures on each and every site. This universal date-certain mandate can be found in the text of Ord. 4-00, Section 4, Subsections a-h, inclusive.

The community itself has also responded powerfully regarding their commitment to fire prevention. In 2008, Measure K, a special assessment (property tax) was passed by the electorate to fund Defensible Space and fuel load reduction activities throughout Northstar. This self-imposed tax of \$313.54 per parcel needed a so-called “super-majority” of the voters (2/3^{rds}) in the affirmative to be enacted. It achieved this high level

of support required for passage. This speaks volumes for the local's commitment to fire prevention.

From Flawed Concept to Functional Ordinance: In looking for opportunities to accelerate compliance with NCSD Ord. 4-00, the concept of a point-of-sale Defensible Space inspection, remediation if needed, and certification mandate was considered. To the great credit of NCSD leadership and staff, they were willing to listen to our industry's grave concerns regarding point-of-sale retrofit mandates (i.e., inefficient, ineffective, inequitable, further burdening the time-sensitive escrow process, capricious targeting, weather-dependant ability to access or remediate/comply, unnecessarily expanding real estate professional liability exposure...). Equally laudable, the CSD was open to alternative means to achieve the desired end-state (i.e., wide-spread Defensible Space compliance). TSBOR suggested that information outreach at-sale provided an opportunity increase awareness of the standing Ordinance, while avoiding most of the troubling aspects of an at-sale testing and retrofitting mandate. Working together as allies, as opposed to acting as adversaries fighting a bad proposal, Northstar CSD leadership, staff, and fire professionals met with TSBOR and formed a draft Ordinance that everyone could support. The net result is the program being announced in this transmission. We have extended our great thanks to Northstar CSD for its accessibility, accountability, and responsiveness to our input. This is a textbook example of how local government should operate.

If you have an interest in digging deeper into the topic of Defensible Space, both from the State's perspective and from the position of local government, go on-line and visit the TSBOR/TSMLS website where you will find a number of supplemental Defensible Space documents. These items are located on the LGR Committee page, in the PDF library, under the **category "Defensible Space Supplemental Docs A-Z"**.

Other Defensible Space Related Documents Posted:

- (a) Northstar CSD Fire Defensible Space Contacts
- (b) NCSD Measure K tax passed
- (c) Cal Public Resources Code 4291 – 4299
- (d) Northstar Community Emergency Guide
- (e) Defensible Space Regulations final § 1299 2_17_06
- (f) NCSD Wild Land Fire Prevention Ord 4-00
- (g) Adoption of 2008 Cal Fire Code as CSD Ord
- (h) draft State Task Force Recommend WildUrban
- (i) draft MOU Fed to State on Wild Fire 2006
- (j) Northstar HOA min June 2009 Fire DefenSpace Rpt
- (k) TSBOR Letter Northstar CSD p-o-s DefenSp Ord
- (l) Broadcast to TSBOR on 19 Aug NCSD meeting
- (m) Northstar CSD DefSpC reminder
- (n) CalFire Homeowner CheckList
- (o) CalFire Homeowner CheckList Spanish
- (p) CalFire DefensibleSpaceFlyer
- (q) CalFire DefensibleSpaceFlyer Spanish
- (r) CalFire BeforeDuringAfter Wildfire

- (s) CalFire Why 100 ft brochure
- (t) 7 steps to fire safe home
- (u) DefensibleSpacePressRelease
- (v) defspacebulletin Dec 2009
- (w) sb_833_bill_chaptered 2009
- (x) Governor EXECUTIVE ORDER S 05 09
- (y) FireSafeCouncil Info
- (z) landscapingtimberland

Additional on-line sources/sites for information on Defensible Space provisions:

<http://www.geog.psu.edu/gouldcenter/lit/>

<http://www.fire.ca.gov/>

<http://osfm.fire.ca.gov/>

<http://www.northstarcsd.org/defensiblespace.html>

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