

REAL ESTATE BUYER ADVISORY

A Resource for Real Estate Consumers brought to
you by Century 21 Deaton and Company Real Estate.

CENTURY 21[®]
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Real Estate



A real estate agent is vital to the purchase of real property and can provide a variety of services in locating a property, negotiating the sale, and advising the buyer. A real estate agent is generally not qualified to discover defects or evaluate the physical condition of property; however, a real estate agent can assist a buyer in finding qualified inspectors and provide the buyer with documents and other resources containing vital information about a prospective property.

This Advisory is designed to make the purchase of real property as smooth as possible. Some of the more common issues that a buyer may decide to investigate or verify concerning a property purchase are summarized in this Advisory. Included in this Advisory are:

1. Common documents a buyer should review;
2. Physical conditions in the property the buyer should investigate; and
3. Conditions affecting the surrounding area that the buyer should investigate.

In addition, a buyer must communicate to the real estate agents in the transaction any special concerns the buyer may have about the property or surrounding area, whether or not those issues are addressed in this Advisory.



REMINDER:

This Advisory is supplemental to obtaining professional property inspections. Professional property inspections are absolutely essential: there is no practical substitute for a professional inspection as a measure to discover and investigate defects or shortcoming in a property.



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Common Documents A Buyer Should Review

The documents listed below may not be relevant in every transaction, nor is the list exhaustive. Unless otherwise stated, the real estate broker has not independently verified the information contained in these documents.

7	Buy-Sell Agreement and Addenda	8	Loan Information & Documents
7	MLS Printout	8	Lead-Based Paint Disclosure
7	Owner's Property Disclosure Statement	8	Home Warranty Policy
7	HOA Disclosures	8	Professional Inspection Report
7	Covenants, Conditions & Restrictions (CCR)	8	County Assessors/Tax Records
7	Homeowner's Association (HOA) Governing Documents	8	Foreign Investment in Real Property Tax Act (FIRPTA)
7	Title Report or Title Commitment		



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Common Physical Conditions in the Property a Buyer Should Investigate

Because every buyer and every property is different, the physical property conditions requiring investigation will vary.

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9	Square Footage	9	Deaths & Felonies on the Property
9	Roof	10	Indoor Environmental Concerns (Mold, Chinese Drywall, Radon Gas & Carbon Monoxide, Drug labs, other
9	Swimming Pools and Spas (Barriers)	10	Property Boundaries
9	Septic or other On-site Wastewater Treatment Facilities	11	Flood Insurance/Flood Plain Status
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9	Water/Well Issues	11	Other Property Conditions (Plumbing, Cooling/Heating, Electrical Systems
9	Previous Fires/Floods		

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Every property is unique; therefore, important conditions vary.

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Section 1 - Common Documents a Buyer Should Review

1. Buy-Sell Agreement and Addenda

Buyers should protect themselves by taking the time to read the real estate purchase contract and understand their legal rights and obligations before they submit an offer to buy a property.

2. MLS Printout

A listing is a contractual agreement between the seller and the listing broker and may authorize the broker to submit information to the Multiple Listing Service (MLS). The MLS printout is similar to an advertisement. Neither the listing agreement nor the printout is a part of the buy-sell agreement between the buyer and seller. The information in the MLS printout was probably secured from the seller, the builder, or a governmental agency, and could be inaccurate, incomplete or an approximation. Therefore, the buyer should verify any important information contained in the MLS.

3. Owner's Property Disclosure (OPD)

Most sellers provide a OPD. This document poses a variety of questions for the seller to answer about the property and its condition. The real estate broker is not responsible for verifying the accuracy of the items on the OPD; therefore, a buyer should carefully review the OPD and verify those statements of concern. Unlike in other states, the OPD is not a state required form. It is not uncommon for it to be blank.

4. HOA Disclosures

If purchasing a resale home in a condominium or planned community, the seller (if fewer than 50 units in the community) or the HOA (if there are 50 or more units) must provide the buyer with a disclosure containing a variety of information.

5. Covenants, Conditions and Restrictions (CC&Rs)

The CC&Rs are recorded against the property and generally empower a homeowner's association to control certain aspects of property use within the development. By purchasing a property in such a development, the buyer agrees to be bound by the CC&Rs. The association, the property owners as a whole, and individual property owners can enforce the contract. It is essential that the buyer review and agree to these restrictions prior to purchasing a property.

Buyers should consult legal counsel if uncertain of the application of particular provisions in the CC&Rs.

6. Homeowners Association (HOA) Governing Documents

In addition to CC&Rs, HOAs may be governed by Articles of Incorporation, Bylaws, Rules and Regulations, and often architectural control standards. Read and understand these documents. Also, be aware that some HOAs impose fees that must be paid when the property is sold, so ask if the purchase of the property will result in any fees.

7. Title Report or Title Commitment

The title report or commitment contains important information and is provided to the buyer by the title/escrow company or agent. This report or commitment lists documents that are exceptions to the title insurance (Schedule B Exceptions). Schedule B Exceptions may include encumbrances, easements, and liens against the property, some of which may affect the use of the property, such as a future addition or swimming pool. Make sure you receive and review all of the listed documents. Questions about the title commitment and Schedule B documents may be answered by the title or escrow officer, legal counsel, or a surveyor.

HomeClosing101.org

Section 1 - Common Documents a Buyer Should Review

8. Loan Information and Documents

Unless a buyer is paying cash, the buyer must qualify for a loan in order to complete the purchase. A buyer should complete a loan application with a lender before making an offer on a property if at all possible and, if not, immediately after making an offer. It will be the buyer's responsibility to deposit any down payment and ensure that the buyer's lender deposits the remainder of the purchase price into escrow prior to the close of escrow date. Therefore, make sure you get all requested documentation to your lender as soon as possible.

[Mortgage Bankers Association Consumer Tools](#)

9. Lead-Based Paint Disclosure Form

If the home was built prior to 1978, the seller must provide the buyer with a lead-based paint disclosure form. Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in residential properties built before 1978 and to follow specific work practices to prevent lead contamination.

[EPA - Lead](#)

10. Home Warranty Policy

A home warranty [policy] is a service contract that typically covers the repair and/or replacement costs of home appliances and major systems such as heating, cooling, plumbing, and possibly other components of a home that fail due to normal usage and age. Coverage varies depending on the policy. Be aware that pre-existing property conditions are generally not covered. A home warranty may be part of the sale of the home. If so, buyers should thoroughly read the home warranty contract to understand coverage, limitations, exclusions, and costs associated with the policy.

11. Professional Inspection Report

The importance of having a property inspected by a professional inspector cannot be over-emphasized. An inspection is a visual physical examination, performed for a fee, designed to identify material defects in the property. The inspector will generally provide the buyer with a report detailing information about the property's condition. The buyer should carefully review this report with the inspector and ask the inspector about any item of concern. Pay attention to the scope of the inspection and any portions of the property excluded from the inspection.

12. County Assessors/Tax Records

The county assessor's records contain a variety of valuable information, including the assessed value of the property for tax purposes and some of the physical aspects of the property, such as the reported square footage. The date built information in the assessor's records can be either the actual or effective/weighted age if the residence has been remodeled. All information on the site should be verified for accuracy.

13. Foreign Investment in Real Property Tax Act (FIRPTA)

Foreign Investment in Real Property Tax Act (FIRPTA) may impact the purchase of property if the legal owner(s) of the property are foreign persons or nonresident aliens pursuant to FIRPTA. If so, consult a tax advisor as mandatory withholding may apply.

[FIRPTA Withholding](#)

[IRS FIRPTA Video](#)

Section 2 - Common Physical Conditions in the Property a Buyer Should Investigate

1. Repairs, Remodeling and New Construction

The seller may have made repairs or added a room to the property. The buyer should feel comfortable that the work was properly done or have an expert evaluate the work. Request copies of permits, invoices or other documentation regarding the work performed.

2. Square Footage

Square footage on the MLS printout or as listed by the county assessor's records is often only an estimate and generally should not be relied upon for the exact square footage in a property. An appraiser or architect can measure the property's size to verify the square footage. If the square footage is important, you should have it confirmed by one of these experts during the inspection period in a resale transaction and prior to executing a contract in a new home transaction.

3. Roof

If the roof is 10 years old or older, a roof inspection by a licensed roofing contractor is highly recommended.

4. Swimming Pools and Spas

If the property has a pool or a spa, the home inspector may exclude the pool or spa from the general inspection so an inspection by a pool or spa company may be necessary.

5. Septic and Other On-Site Wastewater Treatment Facilities

If the home is not connected to a public sewer, it is probably served by an on-site wastewater treatment facility (conventional septic or alternative system). Such systems should be inspected, serviced and in proper working order during the inspection period in a resale transaction.

[Flathead City-County Sewage and Septic Information](#)

[Lake County Wastewater Treatment Information](#)

[Lincoln Country Septic Permitting](#)

6. Sewer

Even if the listing or OPD indicates that the property is connected to the city sewer, a plumber, home inspector, or other professional should verify it. Some counties and cities can perform this test as well.

7. Water/Well Issues

You should investigate the availability and quality of the water to the property. [Montana Environmental Laboratory](#)

8. Previous Fire/Flood

If it is disclosed there has been a fire or flood on the property, a qualified inspector should be hired to advise you regarding any possible future problems as a result of the fire or flood damage and/or any subsequent repairs. For example, if the property was not properly cleaned after a flood, mold issues may result. Your insurance agent may be able to assist you in obtaining information regarding fire, flood, or other past damage to the property.

9. Endangered & Threatened Species

Certain areas in the state may have issues related to federally listed endangered or threatened species that may affect land uses. Further information may be obtained on the U.S. Fish and Wildlife website or by contacting the appropriate planning/development service department.

10. Deaths and Felonies on the Properties

Montana law states that sellers and real estate licensees have no liability for failure to disclose to a buyer that the property was ever the site of a natural death, suicide or felony. This information is often difficult to uncover; however, the local law enforcement agency may be able to identify incidents related to a property address.

Section 2 - Common Physical Conditions in the Property a Buyer Should Investigate

11. Indoor Environmental Concerns

Mold: Mold has always been with us, and it is a rare property that does not have some mold. However, over the past few years a certain kind of mold has been identified as a possible contributor to illnesses. Allergic individuals may experience symptoms related to mold. “If you can see mold, or if there is an earthy or musty odor, you can assume you have a mold problem.”

Imported Drywall: There have been reports of problematic drywall, produced in China, used in homes. Residents in homes with problem drywall report health issues such as respiratory irritation, and other problems such as copper corrosion and sulfur odors. Visit the Consumer Product Safety Commission website for more information.

Radon Gas and Carbon Monoxide: Radon gas and carbon monoxide poisoning are two of the more common and potentially serious indoor air quality (IAQ) concerns. Both of these concerns can be addressed by the home inspector, usually for an additional fee.

Drug labs: Unremediated meth labs and other dangerous drug labs must be disclosed to buyers by Montana law. A list of unremediated properties and a list of registered drug laboratory site remediation firms can be found online.

[MT Meth Lab Contaminated Properties](#)

Other: For information on other indoor environmental concerns, the EPA has a host of resource materials and pamphlets online.

Indoor Environmental Concerns – Resources:

[EPA Mold Information](#)

[CDC Mold Information](#)

[EPA Indoor Air Quality](#)

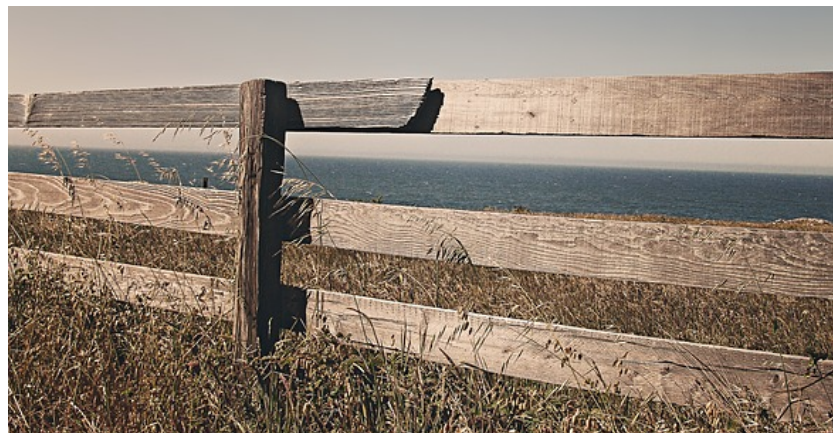
[Drywall Information](#)

[EPA Asbestos Information](#)

[EPA Facts about Formaldehyde](#)

12. Property Boundaries

If the property boundaries are of concern, a survey may be warranted. For example, a survey may be advisable if there is an obvious use of property by others, i.e., a well-worn path across a property and/or parked cars on the property or fences or structures of adjacent property owners that appear to be built on the property.



Section 2 - Common Physical Conditions in the Property a Buyer Should Investigate

13. Flood Insurance/Flood Plain Status

Your mortgage lender may require you to purchase flood insurance in connection with your purchase of the property. The National Flood Insurance Program provides for the availability of flood insurance and established flood insurance policy premiums based on the risk of flooding in the area where properties are located. Changes to the federal law (The BiggertWaters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act of 2014, in particular) will result in changes to flood insurance premiums that are likely to be higher, and in the future may be substantially higher, than premiums paid for flood insurance prior to or at the time of sale of the property.

As a result, purchasers of property should not rely on the premiums paid for flood insurance on the property previously as an indication of the premiums that will apply after completion of the purchase. In considering purchase of the property you should consult with one or more carriers of flood insurance for a better understanding of flood insurance coverage, current and anticipated future flood insurance premiums, whether the prior owner's policy may be assumed by a subsequent purchase of the property, and other matters related to the purchase of flood insurance for the property. If community floodplain information is not available for a specific property, and in order to obtain flood insurance, it may be necessary to have an elevation survey and obtain an elevation certificate. This is necessary to determine a properties insurability and premium rate. You may also wish to contact the Federal Emergency Management Agency (FEMA) for more information about flood insurance as it relates to the property.

Flood Insurance/Flood Plain Status - Resources

[National Flood Insurance Program \(FEMA\)](#)

[Flood Map Service Center \(FEMA\)](#)

[Elevation Certificates: Who needs them and why?](#)

14. Insurance (Claims History)

Many factors affect the availability and cost of homeowner's insurance. Property owners may request a five-year claims history from their insurance company, an insurance support organization or consumer reporting agency.

15. Other Property Conditions

Plumbing: Check functionality.

Cooling/Heating: Make sure the cooling and heating systems are adequate.

Electrical Systems: Check for function and safety.

Section 3 - Conditions Affecting the Area Surrounding the Property the Buyer Should Investigate

1. Electromagnetic Fields

For information on electromagnetic fields, and whether they pose a health risk to you or your family, visit the National Institute of Environmental Health Sciences website.

[National Institute of Environmental Health and Sciences](#)

2. Superfund Sites

There are numerous sites in Montana where the soil and groundwater have been contaminated by improper disposal of contaminants.

[Superfund Sites in Montana](#)

[Montana Superfund Project Info](#)

3. Highway Construction and Traffic Conditions

Although the existence of a highway near the property may provide highly desirable access, sometimes it contributes to undesirable noise. To search for roadway construction and planning, visit the Montana Department of Transportation website.

[Montana Department of Transportation](#)

4. Crime Statistics

Crime statistics, an imperfect measurement at best, provide some indication of the level of criminal activity in an area.

[Montana Board of Crime Control](#)

5. Sex Offenders

The presence of a sex offender in the vicinity of the property is not a fact that the seller or real estate broker is required to disclose.

[National Sex Offender Public Site](#)

[Montana Sexual or Violent Offender Registry](#)

[Flathead County Sheriff Department](#)

[Lake County Sheriff Office](#)

[Lincoln County Sheriff Office](#)

6. Forested Areas

Life in a forested area has unique benefits and concerns. Contact county/city fire authority for more information on issues particular to a community.

[FireSafe Montana](#)



Section 3 - Conditions Affecting the Area Surrounding the Property the Buyer Should Investigate

7. Military and Public Airports

Property within the immediate vicinity of military and public airports can be susceptible to a certain level of noise from aircraft. Periodic overflights that may contribute to noise cannot usually be determined from maps. Vacant land or lots may be for sale within areas of high noise or accident potential zones. Because the zoning of these lots may conflict with the buyer's ability to develop the property, the buyer should verify whether development is prohibited.

[Montana Airports](#)

8. Zoning/Planning/Neighborhood Services

Information may be found on community websites

[Lake County Zoning Regulations](#)

[Flathead Country Zoning Regulations](#)

[Lincoln County Zoning Regulations](#)

[Whitefish Zoning Regulations](#)

[City of Kalispell Planning & Zoning](#)

[City of Columbia Falls Planning & Zoning](#)

9. Schools

Although there is no substitute for an on-site visit to the school to talk with principals and teachers, there is a significant amount of information about Montana's schools on the Internet. Visit the Montana Department of Education website for more information.

[Montana Office of Public Instruction](#)

[Montana High School Enrollment Numbers](#)

10. County Profile Report

Information on demographics, finances and other factors are drawn from an array of sources, such as U.S. Census Bureau, Bureau of Labor, Internal Revenue Service, Federal Bureau of Investigation, and the National Oceanic and Atmospheric Administration and may be viewed on <https://www.montana-demographics.com/>



Section 4 - Other Methods of Getting Information About a Property

1. Talk to the Neighbors

Neighbors can provide a wealth of information. Buyers should always talk to the surrounding residents about the neighborhood and the history of the property the buyer is considering for purchase.

2. Drive around the Neighborhood

Buyers should always drive around the neighborhood, preferably on different days at several different times of the day and evening, to investigate the surrounding area.

3. Investigate your Surroundings

Google Earth is an additional method to investigate the surrounding area:

<https://www.google.com/earth/>



Section 5 - Resources

1. Market Conditions Advisory

The real estate market is cyclical and real estate values go up and down. The financial market also changes, affecting the terms on which a lender will agree to loan money on real property. It is impossible to accurately predict what the real estate or financial market conditions will be at any given time. The ultimate decision on the price a buyer is willing to pay and the price a seller is willing to accept for a specific property rests solely with the individual buyer or seller. The parties to a real estate transaction must decide on what price and terms they are willing to buy or sell in light of market conditions, their own financial resources and their own unique circumstances. The parties must, upon careful deliberation, decide how much risk they are willing to assume in a transaction. Any waiver of contingencies, rights or warranties in the Buy-Sell Agreement may have adverse consequences. Buyer and seller acknowledge that they understand these risks. Buyer and Seller assume all responsibility should the return on investment, tax consequences, credit effects, or financing terms not meet their expectations. The parties understand and agree that the Broker(s) do not provide advice on property as an investment. Broker(s) are not qualified to provide financial, legal, or tax advice regarding a real estate transaction. Therefore, Broker(s) make no representation regarding the above items. Buyer and seller are advised to obtain professional tax and legal advice regarding the advisability of entering into this transaction.

2. Fair Housing and Disability Laws

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with people securing custody of children under the age of 18), and handicap (disability).

[U. S. Government – HUD](#)

[American's with Disabilities Act](#)

3. Wire Fraud

Beware of wiring instructions sent via email. Cyber criminals may hack email accounts and send emails with fake wiring instructions. You should independently confirm wiring instruction in person or via a telephone call to a trusted and verified phone number prior to wiring any money.

4. Additional Information

[National Association of Realtors \(NAR\)](#)

[NAR's Ten Steps to Home Ownership](#)

[Home Closing 101](#)



Buyer Acknowledgement

Buyer acknowledges receipt of this Advisory.

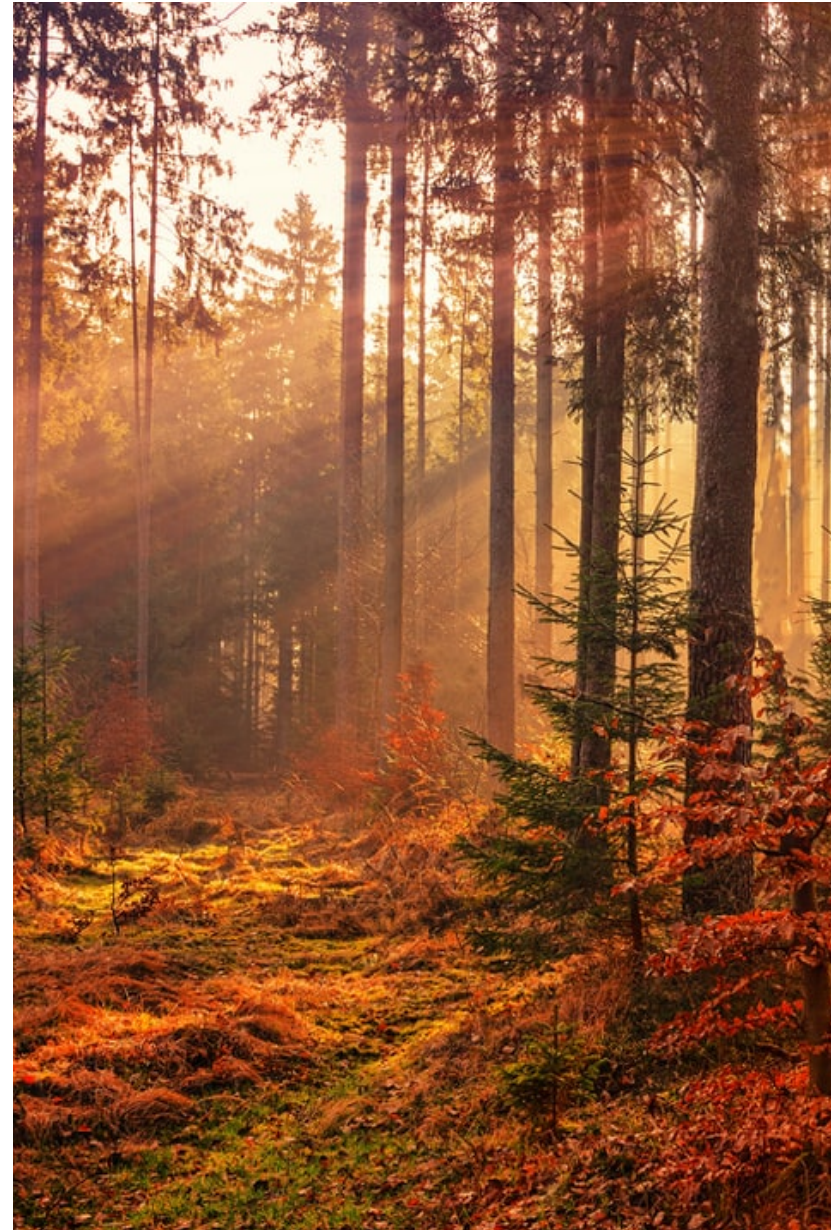
Buyer further acknowledges that there may be other disclosure issues of concern not listed in this Advisory. Buyer is responsible for making all necessary inquiries and consulting the appropriate persons or entities prior to the purchase of any property. The information in this Advisory is provided with the understanding that it is not intended as legal or other professional services or advice. These materials have been prepared for general informational purposes only. The information and links contained herein may not be updated or revised for accuracy. If you have any additional questions or need advice, please contact your own lawyer or other professional representative.

Buyer Signature

Date

Buyer Signature

Date





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