

DOS PROVIDES GUIDANCE ON AMENDED PROPERTY CONDITION DISCLOSURE FORM AND HOW IT APPLIES TO CURRENT LISTINGS

The amended Property Condition Disclosure Statement (PCDS) went into effect Wednesday, June 14, 2023. NYSAR inquired with the DOS how the amended form may impact current listings taken prior to June 14, 2023. Below is a summary of the response from DOS.

*Section 462 of the Real Property Law (RPL) provides, in part, “Except as is provided in section four hundred sixty-three of this article, every seller of residential real property pursuant to a real estate purchase contract shall complete and sign a property condition disclosure statement as prescribed by subdivision two of this section and cause it, or a copy thereof, to be delivered to a buyer or buyer’s agent prior to the signing by the buyer of a binding contract of sale. **A copy of the property condition disclosure statement containing the signatures of both seller and buyer shall be attached to the real estate purchase contract.**” N.Y. Real Prop. Law § 462(1) (McKinney)(emphasis supplied).*

If a contract of sale has already been executed with the signed disclosure, then the seller met his/her obligation. If the seller provides the disclosure, at listing, but there is no “buyer” yet, such disclosure is likely not effective since it was not signed by the “buyer” as required under 462(1). When the “buyer” signs the disclosure, it should conform to the law at the time it was given. Therefore, if a listing was taken prior to June 14, 2023 and the PCDS was provided by the seller but it was not signed by the buyer prior to June 14, 2023, the new amended PCDS must be used instead. The seller would need to fill out the amended PCDS under these circumstances.

If you have any questions, please contact the NYSAR Legal Hotline. The Legal Hotline is available Monday-Friday from 9:00am-4:00pm at 518-436-9727.