



C.A.R.
LEGAL
TOOLS

Acting Against the Advice of the Broker

Fiduciary Duty to Client

- Duty of utmost care, integrity, honesty and loyalty [Disclosure Regarding Real Estate Agency Relationship form (C.A.R. form AD) (Civil Code Section 2079.16)]
- Duty to advise and counsel [*Field v Century 21 Klowden-Forness Realty*]



What Do Agents Give Advice On?

- Listing price / Offering price
- How to market
- Disclosures
- Contracts and addenda
- Getting in and getting out of contract
- You name some others



Take My Advice, ...Please

- Do clients ever ignore your suggestions?
- What do you do?
- You should document for your file. What you said, when you said it and to whom.
- For big issues that could have legal consequences, send writing to client.



What Issues Warrant Writing and Sending Client a Letter?

- Broker/Office Manager gives examples
 - Buyer moving in early
 - Seller staying after close without a written agreement
 - Seller refusing to make agreed-on repairs
 - Buyer removing contingencies without getting seller disclosure
 - Others
- Broker/Office Manager asks for examples from agents



What Issues Only Warrant a Note to the File

- Broker/Office Manager gives examples
 - Paint
 - Stage
 - Remove clutter
 - Talk in private, not at open house
 - Price to list/Price to offer
- Broker/Office Manager asks for examples

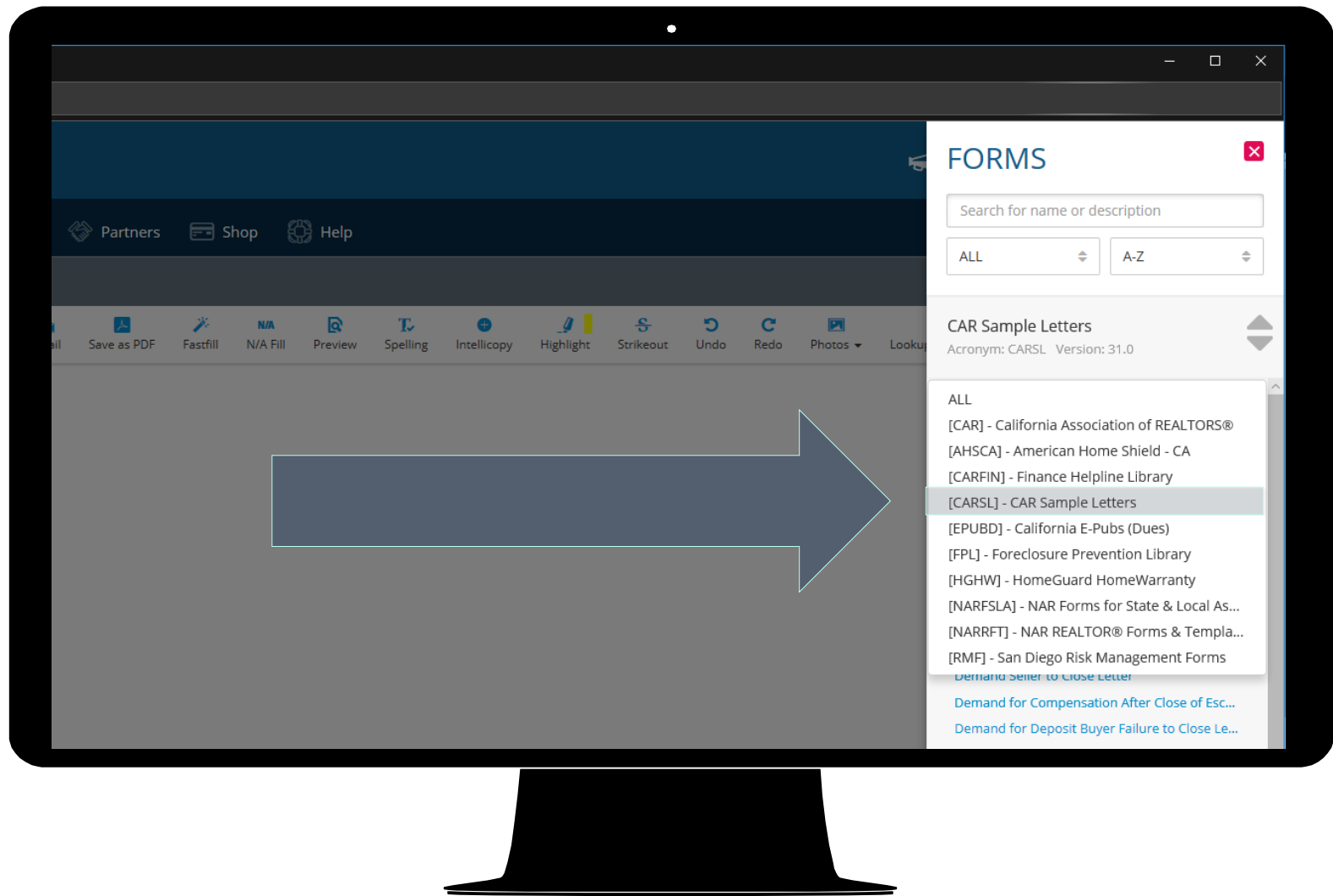


How to Send Client a Letter?

- Brokerage company form or C.A.R. form
- If C.A.R. form:
 - Open zipForm®
 - Go to C.A.R. Sample Letter library (library drop down menu) (CARSL)
 - Find Acting Against Broker Advice – Buyer (AABAB)
 - Find Acting Against Broker Advice – Seller (AABAS)

free C.A.R. member benefit

zipForm®
by zipLogix



FORMS

Search for name or description

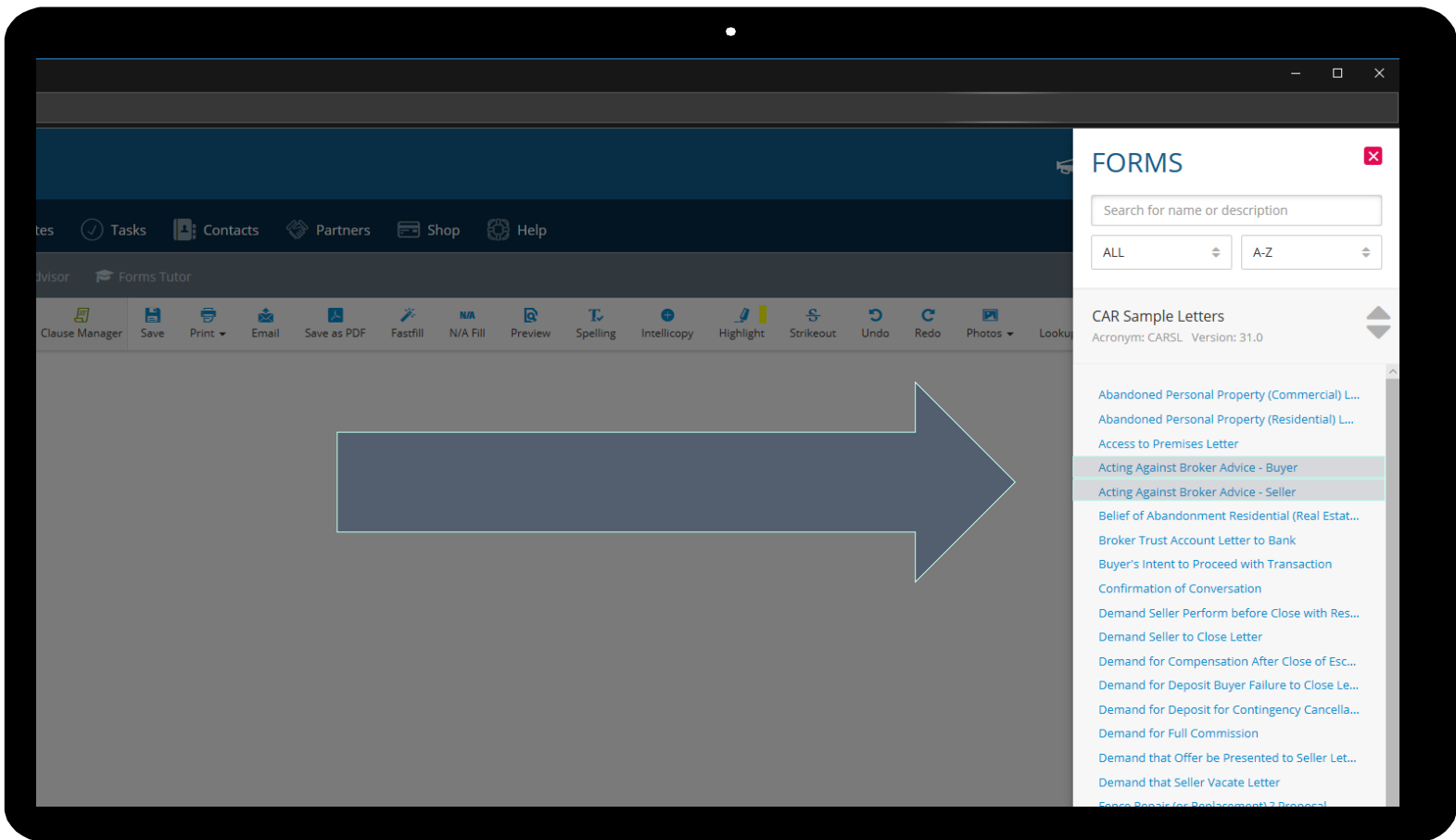
ALL

A-Z

CAR Sample Letters

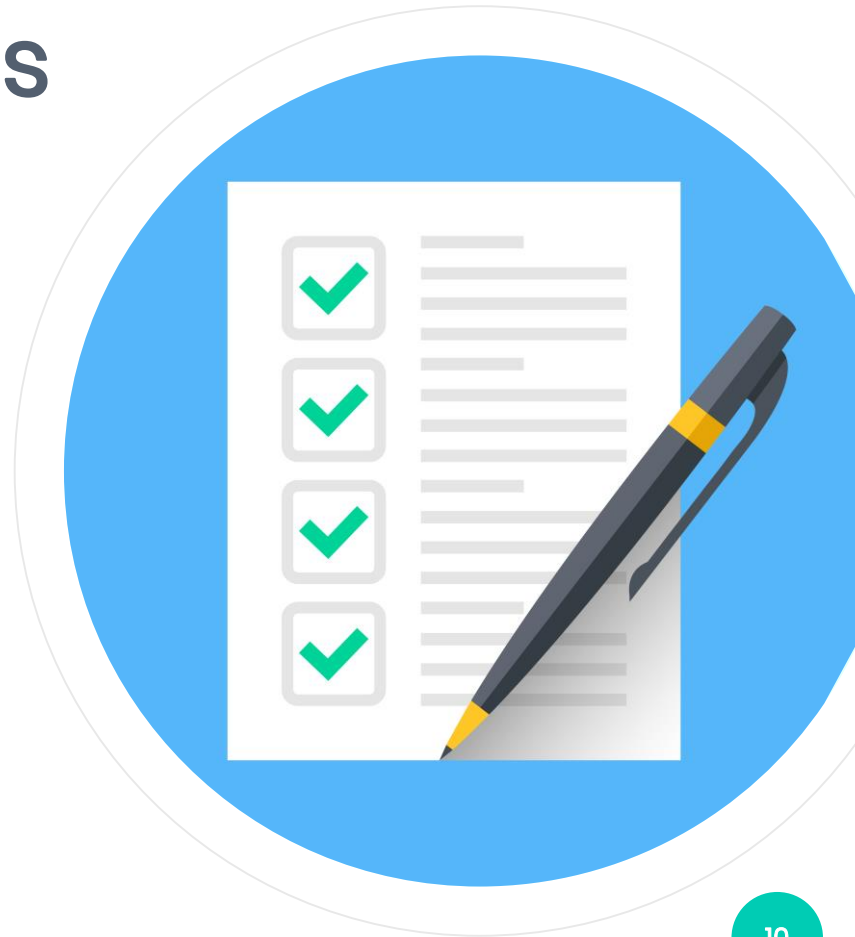
Acronym: CARSL Version: 31.0

- ALL
- [CAR] - California Association of REALTORS®
- [AHSCA] - American Home Shield - CA
- [CARFIN] - Finance Helpline Library
- [CARSL] - CAR Sample Letters
- [EPUBD] - California E-Pubs (Dues)
- [FPPL] - Foreclosure Prevention Library
- [GHGW] - HomeGuard HomeWarranty
- [NARFSLA] - NAR Forms for State & Local AS...
- [NARRFT] - NAR REALTOR® Forms & Templa...
- [RMF] - San Diego Risk Management Forms
- [Demand Seller to Close Letter](#)
- [Demand for Compensation After Close of Esc...](#)
- [Demand for Deposit Buyer Failure to Close Le...](#)



Pre-printed Examples in AABAB

- making offers with no or limited contingencies
- removing contingencies early or without required disclosures from seller
- failing to investigate the property
- closing escrow without receiving reports or disclosures
- making multiple offers with the intent and ability to only follow-through with one



Screen Shot: AABAB Letter

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_____ ("Buyer")

Re: Acting Against the Advice of Broker

Dear _____ (Buyer),

Real property sales are often complicated transactions which require a buyer to make many decisions. Some of these decisions involve risk that may have legal, financial, contractual or other consequences. While a real estate broker can be of assistance in alerting a client to many risky actions, only you can decide what to do.

It has come to our attention that you intend to take the following action(s):

- Make a completely or partially non-contingent offer (C.A.R. form Market Conditions Advisory (MCA) is attached).
- Remove a contingency before the time required by the contract or before having complete information about that contingency (C.A.R. form Market Conditions Advisory (MCA) is attached).
- Fail to make property investigations (C.A.R. form Buyer's Inspection Waiver (BIW) and C.A.R. form Buyer's Inspection Elections (BIE) are attached).
- Close escrow without receiving reports and disclosures.
- Make multiple offers on more than one property even though you intend to buy only one (C.A.R. form Market Conditions Advisory (MCA) is attached).
- Make an offer with an escalation clause.
- Other / explanation:

Pre-printed Examples in AABAS

- failure to make agreed-upon repairs
- refusal to permit agreed-upon inspections
- allowing the buyer to move into the property prior to close of escrow, and
- allowing the buyer to make repairs or renovations prior to close of escrow.



Screen Shot: AABAS Letter

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of the property located at _____ (Street address)
_____(Unit #) _____(City) _____(State) _____(Zip Code) ("Property")
as specified in the Residential Purchase Agreement or [] Other: _____ dated _____
("Agreement") between Buyer and _____
_____ ("Seller")

Re: Acting Against the Advice of Broker

Dear _____ (Seller),


Real property sales are often complicated transactions which require a seller to make many decisions. Some of these decisions involve risk that may have legal, financial, contractual or other consequences. While a real estate broker can be of assistance in alerting a client to many risky actions, only you can decide what to do.

It has come to our attention that you intend to take the following action(s):

- Fail to make agreed-upon repairs.
- Refuse to permit agreed-upon inspections of the property within the time specified in the contract.
- Allow buyer to move into the property before the scheduled close of escrow.
- Allow buyer to make repairs or renovate the property before the scheduled close of escrow.
- Other / explanation:

ADDITIONAL RESOURCES

 **Quick Guide** – Acting Against the Advice of the Broker
Please Return to the main page to view the Quick Guide

 **Video** – Acting Against the Advice of the Broker
Please return to the main page to view the video