

Disclosure laws vary from one state to the next. But, there is a movement nationally to require sellers to disclose material facts that might affect the buyers' decision to buy or the price they might pay.

DISCLOSING DEFECTS

HOW CAN I PROTECT MYSELF SELLING A HOME?

Most after-closing claims by buyers against sellers involve misrepresentations or sloppy disclosures. Here are a few guidelines for protecting yourself when you sell your home. First, pick the right agent. Your listing agent will represent you in interactions with other agents, prospective buyers, lenders, inspectors, and various professionals associated with the real estate business. Be sure to select a trustworthy agent with whom you are compatible, one who will represent you honestly and fairly in your dealings with others during the sale.

Next, be fastidious about preparing your property for sale. This will not only facilitate the sale and bring you a higher price, it could prevent after closing disputes with the buyers.

Make a list of all the elements of your home that need repair or replacement. Your agent can help you with this. If you're uncertain about the condition of a major system, like the roof or furnace, you might want to hire a professional to inspect and issue a report.

Determine how much it will cost to repair or replace defective items. If you can't afford to repair everything on the list, ask your agent to help you prioritize. Disclose any defects that you're aware of that you don't fix before selling.

HOME SELLER TIP

Sellers often fear that if they disclose defects to buyers it will impede the sale of the property. This rarely happens. In fact, buyers appreciate knowing about property defects before they buy. Problems can develop when buyers discover defects after closing that they know the sellers were aware of, but failed to disclose.

A California home seller answered no when he was asked if he had any drainage or flooding problems. He had remodeled his home to create a family room in the lower level that had previously been a basement. During the first heavy rain after the buyers moved in, the family room was flooded with water. The buyers sued the sellers in court and won.

It's natural to feel proud of your home. But, avoid over-selling your home to prospective buyers. Be particularly careful about rooms that were added without required building permits.

Let's say your home has four bedrooms, plus a room that was added without permits that could also be used as a bedroom. From a marketing and legal standpoint, you'd be better off marketing your home as a four bedroom, not a five bedroom, home. Interested buyers will discover when they look at your home that it has an extra room that could be used for a bedroom. They'll be pleasantly surprised to find more than they anticipated. If you market the home as having five bedrooms. Buyers will be disappointed to find that the fifth bedroom isn't a legal bedroom. If this information isn't discovered until after closing, you could have a legal problem.

Many after-closing claims involve misrepresentation of square footage. When a property is passed from one owner to the next, the square footage is often rounded up to a higher number. For Instance, a 2900 square foot home might be represented as approximately 3000 square feet. The next owner might say the house has about 3000 square feet, perhaps a little more. Never guess about square footage. Square footage claims can involve substantial monetary damages.

THE CLOSING

Check with your agent or real estate attorney if you have any questions about your disclosure obligations.

SOURCE: Dian Hymer, Inman News Features

