

Just the facts: What Buyers and Sellers Should Know About Disclosure

Have you heard the saying that what you don't know won't hurt you? Well, when it comes to buying real estate, that's not the case. You need to know if the house you're buying had a flooding issue in the past or has a defective roof.

That's why full disclosure—a seller's obligation to disclose facts about properties for sale—is critical for a successful real estate transaction. Buyers need to know material facts about a home—that is, anything that could affect the sale price or influence the buyer's decision to proceed with the purchase.

Most states, including Texas, require some type of formal seller disclosure to avoid disputes and lawsuits accusing the seller of not disclosing problems he knew about before the sale. Here's what you need to know.

What's on a disclosure form?

A disclosure form is a notice most residential sellers are required to give potential buyers on or before the effective date of a real estate contract for sale. The document covers the seller's awareness of any defects in the property before the sale in reasonable detail.

You can access a copy of this form on the Texas Real Estate Commission's website for public use; however, you should ask your San Antonio area REALTOR® any questions you have about completing the form and what should be included. For example, if you've had a termite problem in the past, that's something that prospective buyers should know. Or, if the roof has a leak, buyers need to know that, too.

There are also federal laws about disclosure your REALTOR® will discuss with you. For example, someone selling a home built before 1978 must disclose any known lead-based paint problems.

Honesty is the best policy when selling

Intentionally withholding information about a property when you sell can have serious legal ramifications. Talk to your REALTOR® and make sure you understand your responsibilities. You don't want to inadvertently leave something out and have to deal with the expense and possible legal consequences later.

Don't be afraid to disclose information about your property, especially things that will come up in the inspection anyway. Disclosure laws were created to protect buyers, but they also protect sellers. If all the information about a property is revealed upfront, you're less likely to be involved in disputes after the sale.

Protect yourself and your purchase

If you're buying a new home, you want to make a solid decision, and that starts with having all the pertinent information. Ask for the seller disclosure document when you submit your offer and read it carefully. If any items concern you, ask questions and investigate.

Another step you can take to protect yourself when you find a house you like is to hire a licensed inspector. It's a relatively small price to pay to have a professional look into all the systems and components and report to you where deficiencies or potential problems exist.

You may also want to hire specialists when you have specific concerns, or when the inspector suggests it, such as a structural engineer to examine a potential foundation problem. Yes, you will have to pay for these professionals, but you'll want to know if there are expensive repairs in a property's future before it becomes your property.

Consult a professional

Disclosure is a necessary part of the real estate transaction, helping to protect both buyers and sellers and ensuring lots of smiles on closing day and beyond. If you have questions about disclosure when buying or selling a home, ask your San Antonio area REALTOR® for advice. He will be knowledgeable about state and federal requirements, and he will help you determine what information to share.