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# Show and Tell

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## DISCLOSURE ISSUES SURFACE IN HOME BUYING, SELLING

**Whether you're selling your home or looking for that great deal,** questions often surface when it comes to the subject of disclosure. What must a seller disclose about past repairs? Is there recourse for the buyer if problems surface down the road? These are two of the burning questions for those on either side of a real estate transaction. And real estate professionals agree there are a few common sense disclosure principles to adhere to whether you're a buyer or a seller.

### WHEN IN DOUBT, DISCLOSE

If the seller is hiding a defect or incomplete past repair, and it surfaces as a problem for the buyer down the road, he could end up being liable for up to three times the cost of damages, said Rob Jenson, CEO and founder of the Jenson Group at Re/Max Central, a valley real estate brokerage firm.

Sellers "need to be aware that there is a liability for you in the future. Just because the home is sold doesn't mean it's over. If you don't disclose something on purpose, you could end up in court later," he said.

Upon acceptance of an offer, the seller will furnish the buyer with a Real Property Disclosure Form, or Nevada Revised Statute (N.R.S.) 113, said Jenson. It is at this point that the seller needs to be up-front and honest about past repairs, particularly major ones. But many sellers may be wary of disclosing too much, perhaps scaring off a potential buyer.

Charles McWilliam, owner of Criterium-McWilliam Engineers, a valley-based residential and commercial building inspecting company, has a rule of thumb he offers sellers. "I'd say, if it's over a \$500 repair, you may want to mention it," he said.

### INSPECT SOONER THAN LATER

For buyers, getting an inspection and an insurance appraisal should be the first things done during the due diligence period, or, in most cases, 10 days following the opening of escrow.

"You don't want to be waiting until the eighth day to call an inspector," McWilliam added. "If you wait around and something is wrong with the property, you could lose your earnest money."

McWilliam said an inspector should be able to spot most major problems. But he also said it's important for buyers to look at a home closely to get a sense of what kind of features or additions were done after the home was built. A buyer could then find out from the seller if the work was done by a contractor or can ask an inspector to look closely to see if the work is up to code.

"I used to tell people to watch out for do-it-yourselfers. But that's not really the case anymore," he said.

McWilliam and Jenson also recommend using a licensed roofing company for an additional inspection.

### GET A C.L.U.E.

Running a Comprehensive Loss Underwriting Exchange, or C.L.U.E., report is key to finding any history of insurance claims on a property. A simple call to your insurance agent is all it takes, said Jenson. In most cases when an insurance claim was filed, a licensed contractor was used for repairs. In the cases in which the owners hired a handyman or did repairs themselves, problems can surface.

"When a buyer comes in and you (the seller) can say a reputable company did (the repair), you're probably OK," added McWilliam. But he also has found that even licensed contractors may have done repairs that were not up to par.

Both McWilliam and Jenson also say keeping paperwork done by licensed contractors and having the buyer initial copies during escrow is prudent.

"It really just lets the buyer know that you're a responsible homeowner, and you tried to do the right thing," Jenson added.

### FORECLOSURE

Roughly two-thirds of all homes on the market today are either bank-owned or short sales. If a property is purchased from the bank, buyers will be asked to sign an N.R.S. 113 waiver form. The form is in place for the bank's protection, noted Jenson.

"It's not that the bank's trying to get you. It's hard to fill out something like that on a place you've never lived in," he said.

McWilliam added that with so many foreclosures on the market, more and more banks are willing to negotiate a repair allowance or have problems fixed before move-in. "It really depends on the bank. But I've seen some situations where the bank

was willing to do what it takes to close the deal," he added.

McWilliam also said inspectors need to watch for hidden damages with foreclosures. "Most of the time, these people (former owners) are taking out fixtures or appliances without much care for what they might be damaging behind the wall," he added.

Short sales, which occur when the homeowner, with the bank's approval, accepts less than what is owed on the home, still require sellers to disclose problems or major past repairs, Jenson added.

"That's one of those things a lot of (short sale) sellers forget. The bank doesn't own the property. You still need to fill that stuff out honestly," he said. **GL**

### Disclosure tips and considerations:

- For sellers, when in doubt, disclose. You could be responsible for up to three times the damages if a problem you knowingly did not reveal results in losses for the buyer.
- Buyers should get an inspection and C.L.U.E. report done early in the escrow process.
- Buyers should call a licensed roofer out for a roof inspection.
- Sellers should keep paperwork of major repairs and have buyers initial copies of the receipts.
- Short sales are not bank-owned properties. An N.R.S. 113 disclosure form still needs to be filled out accurately by the seller.
- If a repair is more than \$500, sellers are advised to disclose it to the buyer.
- When looking at a home, buyers should look for additions, fixtures or features that clearly look like they were added to the home after it was originally built.