EP 1. Seller Disclosure from the Buyer's Perspective

Hello Michigan Realtors®! Happy New Year and welcome to 2026. As we settle in, we wanted to start a new season of the Letter of the Law with a two-episode arc focused on Seller's Disclosure. Whenever we discuss the Michigan Seller Disclosure Act, we are typically looking at it from the seller's point of view. What do sellers need to disclose? When are they required to update the seller's disclosure form? Which sellers are exempt? Today we will look at the statute from the buyer's point of view.

Buyers should understand how and to what extent they can rely on representations made in a seller's disclosure statement. Sellers have no obligation to volunteer all relevant information about their home. A seller's legal obligation is to honestly answer all of the specific questions in the Seller's Disclosure Statement. If a buyer or buyer's agent has questions about the home which are not covered by the Seller's Disclosure Statement, they should ask the seller (and follow up with their own inspector(s)).

Buyers should also understand that the Seller's Disclosure Statement is not a warranty of any kind. If it turns out that the information is false, the buyers will have no claim unless they can prove that the seller <u>knew</u> the information was false at the time they filled out the form. Buyers should further understand that the seller's only duty to amend the Seller's Disclosure Statement is in the event of changes to structural/mechanical/appliance items. As to other items, it is only necessary that the seller believed that the representations were accurate <u>at the time the seller's disclosure statement was signed</u>.

Michigan courts do not generally protect buyers who appear to have ignored disclosures about potential defects without checking further. When issues are raised – whether in the Seller's Disclosure Statement, in the inspection report or from the buyer's own observations – it is generally the case that a buyer has an obligation to investigate further.

There is no way to force a seller to provide a Seller's Disclosure Statement, even where required by law. That said, it will be important for a buyer who does not receive a Seller's Disclosure Statement to understand that he or she has the right to walk away from the transaction at any time before closing.

Seller's Disclosure forms are not required for all transactions. For example, they are not required for vacant land, commercial transactions or in sales from trustees, certain lenders and governmental entities.

Just because the Seller's Disclosure Statement indicates that a certain appliance is in "working order," does not necessarily mean that such appliance is included in the sale. If a buyer wants certain appliances included in the sale, they should be listed in the purchase agreement.

In addition to the information being provided by the seller, the form contains language encouraging the buyer to obtain their own home inspections and conduct their own inquiries as to:

1. The presence of mold.
2. Information available on the sex offender registry.
3. Information on future real estate tax amounts after a sale.

This is perhaps the primary takeaway from this installment. When you are working with a buyer, it is important for your client to understand the value of the Seller Disclosure form as a starting point. But that the law, and reliance on the form it prescribes, has never been an absolute protection for a buyer. Your buyer clients should be encouraged to engage in property inspection and as much due diligence as they can prior to waiving any inspection contingency. Again, this line of conversation with your buyer clients is yet another area to emphasize the value of buyer brokerage and having a dedicated advocate in the home buying process.

Thank you for tuning in for the new season. We’ll stay with seller disclosure with our next episode, focusing on the duties of investor owners and house flippers when it comes to seller disclosure. Until then, stay warm, and please send those questions and comments to the email below!