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Selling Your Home “As-Is”

When you are selling your house, your real estate agent may suggest that you paint the walls, pull up the carpeting and perhaps update your kitchen or bathroom in some way. You may have lived in your house for a considerable length of time and not kept up with every change in decorating (i.e. are your kitchen countertops granite, are your appliances stainless steel or are they avocado colored?). You may not have maintained the house as carefully as you did 10-15 years ago.

You may not want to spend the money or maybe you don't have the money. You believe that you can lower your price, sell the house “as-is” and the buyer can get a bargain that he can decorate as he wishes to.

My recent experience with a seller who sold a house “as-is” was not a successful one initially. My clients were the children of the homeowner, who were moving to assisted living. The parents had lived in the house for fifty (50) years and hadn't painted in several years, the carpet had a few splotches on it, and the kitchen was updated in the 1970s. My clients decided to sell their parents' house “as-is” and set what they thought was a below-market price. They disclosed the conditions of the house on the Sellers' Disclosure and figured they had done what they needed to get a buyer.

They did get a buyer and they told the buyer the sale was “as-is,” but they allowed the buyer to do the usual home inspections. They told the buyer that if a major defect was found, the buyer could cancel the contract.

Normally when a house is sold “as-is” there is no right for the buyer to cancel the contract, no matter what is found through the inspections. The seller does not even have to give the buyer access to have the inspections done.

The home inspections disclosed some defects that neither my clients nor their parents were aware of. The language of the home inspection report made the property sound as if it were in imminent danger of falling down or catching fire. The buyers first asked my clients to make repairs, which was not part of the “as-is” agreement. My clients reminded the buyer that he had been warned about the “as-is” nature of the sale and that many of the defects had already been disclosed to him. The buyer suddenly did not want an “as-is” deal and asked to cancel the contract. Although my clients were not obligated to do so, they agreed to cancel the contract. I'm sure neither side was happy in that transaction. It took another month for my clients to find another buyer.

Sellers need to be aware that buyers do not know what they are agreeing to when they agree to buy a house “as-is.” It doesn't matter how low the price is set. The typical buyer is usually thinking that he got a steal and he will not mentally add in the possible costs of major repairs when bidding on such a house. The seller needs to be prepared to either spend some money on some repairs or let the buyer cancel, even though the seller

is not legally obligated to do so. As a practical matter, the buyer who wants out of a deal will never close and will leave a seller's property tied up for years.

If you are selling your property "as-is," be aware that buyers don't really usually mean they will purchase "as-is" no matter what it says in the contract. Expect possible problems regarding the condition of the house. If you are a buyer and the property is being sold "as-is," please realize that you are agreeing to do your own repairs in exchange for a lower-than-market value price.

Email Robin Gronsky at Rgronsky@Gronskylaw.com to request a copy of her article "Real Estate Sellers' Costs."