

REAL ESTATE NEWS

Disclosure

Seller must put property's condition in writing

By Doug Funke Staff Writer

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Janis Hashell

Michigan Association of Realtors

sample disclosure statement that specifically requires the owner to answer yes, no, unknown or not available to whether appliances, electrical, plumbing, heating and water systems are in working order.

'Thirty-four specific areas from the roof to the water heater are addressed.

The seller also is asked if there has been evidence of water in the basement, history, if any, of infestation, and to list the most recent state equal valuation of the property provided by the local taxing unit.

'It's a good law because it puts

buyers' and sellers' minds at ease," said Art Mullen, executive vice president of the Western Wayne Oakland County Association of Realtors.

Bowen Brock, owner of Max Brock Realtors headquartered in Bloomfield Hills and immediate past president of the Michigan Association of Realtors, has similar thoughts.

"This new consumer-oriented law provides a greater level of consumer comfort and confidence in buying or selling a home," Brock said. "Mandatory sellers property condition disclosure is everyone's best interest."

"When making the commitment to

purchase a home, the buyer will find comfort in knowing that all known material defects on the property were disclosed before making the purchase decision," he said. "And the seller will find reassurance that they haven't overlooked an item that they may be held liable for later."

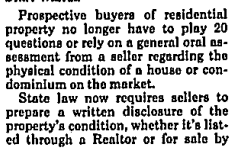
Going over the disclosure form also might prompt the seller to make repairs to get a better purchase offer.

The disclosure statement meant as a warranty as to the soundness of the property and isn't meant to replace an inspection sought by the buyer, the state association reported.

In fact, the form specifically mentions that the buyer should consider obtaining an inspection and professional advice to more fully determine the condition of the property.

Realtors themselves initiated the legislation in an effort to get a handle on liability matters, Brock said.

"I don't see it as a panacea, but it's a big step in clearing the air," he said.



Janis Hashell, Michigan Association of Realtors

Prospective buyers of residential property no longer have to play 20 questions or rely on a general oral assessment from a seller regarding the physical condition of a house or condominium on the market.

State law now requires sellers to prepare a written disclosure of the property's condition, whether it's listed through a Realtor or for sale by owner.

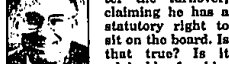
"It places the buyer, seller and real estate agent on a level playing field by providing them with the information necessary to complete a well-informed, well-documented real estate transaction," said Janis Hashell, spokeswoman for the Michigan Association of Realtors.

"It's a major change in the industry, and it benefits all parties involved," said Ed LeVoy, regional director for Re/Max Detroit metro.

The state Legislature prepared a

Developer can name director; liability coverage a must

Q. Our developer refuses to resign from the board of directors, even after the turnover, claiming he has a statutory right to sit on the board. Is that true? Is it advisable for him to do so?



Robert M. Meisner

A. The developer has the right to designate at least one director, as long as he owns and offers for sale at least 10 percent of the units in the project or as long as 10 percent of the units remain that may be created. Whether this is prudent on the part of the developer depends on the circumstances.

Generally, the developer may well

be in a conflict of interest by serving on the board after turnover, particularly if there are issues between the association and the developer regarding the physical or financial condition of the association that could lead to litigation or other adversarial proceedings.

You should consult with your association's attorney in regard to what would be the best course of action for the association.

Q. I am a member of the board of directors and am extremely concerned because the board does not have directors and officers liability insurance to back up its indemnification obligations to the board members by the Association. The board members seem to think they do not need this coverage because the homeowners would, in effect,

be suing themselves. Is this true?

A. Clearly not. Directors of associations are being sued regularly by members of the association for mismanagement, breach of fiduciary duty of loyalty, and many other incidents. The fact that the association has an obligation to indemnify the directors in certain instances is of very little use if the association does not have the economic funds available through insurance to provide for indemnification.

While the board clearly has the right to assess the homeowners for such liability incurred in such an instance, it is obviously not something that the association members will clearly like to have happen to them. Moreover, it is a misnomer to think that a member of the association is suing himself when he sues the asso-

ciation or board because they are separate legal entities with separate legal responsibilities.

I would press on in regard to attempting to get the board to obtain directors and officers liability insurance immediately. If it is not done immediately, I would resign from the board.

Robert M. Meisner is a Birmingham-area attorney concentrating his practice in the areas of condominium, real estate and corporate law. You are invited to submit questions by writing: Robert M. Meisner, 30200 Telegraph Road, Suite 467, Birmingham Farms, MI 48025. This column provides general information and should not be construed as legal opinion. To leave a voice-mail message for Robert M. Meisner, dial 953-2047, mailbox 1871.

REAL ESTATE LISTINGS

Listings feature news and notes about suburban real estate. To list an announcement, write: Listings, Real Estate Editor, Observer & Eccentric Newspapers, 36251 Schoolcraft, Livonia 48150. Our fax number is 313-591-7279.

JOINS RE/MAX

Ray A. Fox of West Bloomfield has joined the real estate office of Re/Max in the Hills, 1400 Woodward, Bloomfield Hills. He had been affiliated for nearly five years with Cranbrook Associates, Franklin.

Fox is a participating member of the state and national associations of Realtors.

As a member of the "16 Million Dollar Club," he will continue to serve the residential real estate needs of Franklin, Birmingham, Bloomfield Hills, West Bloomfield and the lakes area.

He holds a Graduate Senior Appraiser designation.

Reach him at 810-646-5000 or 1-800-RAY-A-FOX.

SELLERS HELP

Homeing your home will be the topic of a free seminar 7-9 p.m. Tuesday, Feb. 8, at the Holiday Inn Livonia West. For reservations, call 810-478-1700, Ext. 241.

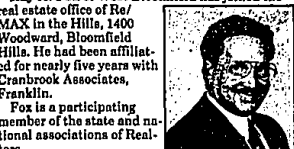
In lieu of a fee, bring a canned goods donation for the Salvation Army to distribute to needy local families.

Event co-sponsors are the Western Wayne Oakland County Association of Realtors and the Observer & Eccentric Newspapers.

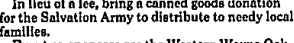
The program will feature speakers covering such areas as tax implications and benefits, appraisal information and the latest legal facts, particularly new changes in the agency and property disclosure laws.

The seminar is designed to provide useful information to the general public without putting pressure on them to use the services of a specific company.

"We do not allow the promotion of any individual or firm at this program," said Carlisle Shinsky, WWOCA president. "We only want to provide potential home sellers with the information they are going to need to make the selling process a smooth one."



Ray A. Fox, Re/Max in the Hills



Robert M. Meisner, Attorney



301 Open Houses

BIRMINGHAM OPEN SUN. 12-2 p.m. 2 bedroom townhome, 1200 sq. ft., brick, hardwood floors, \$135,000. Call Herb Reilly, 647-1200.

BIRMINGHAM OPEN SUNDAY 1-4 p.m. Warm and inviting home to update. Updated kitchen with granite to separate family room from living room. Hardwood floors, built-in entertainment center, fireplace, oak floors. 2 front doors open to charming porch. 1900 sq. ft. Call 313-591-7279.

HANNETT & WILSON & WHITEHOUSE 646-8200

Bloomfield Hills OPEN SUN. 1-4 p.m. 3 BR/2.5 BATH/2 CAR GARAGE. 2100 sq. ft. Call 313-591-7279.

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CONDO QUERIES

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CLASSIFIED REAL ESTATE

Real estate listings for Birmingham area, including properties in 301, 302, and 303 zip codes.

Real estate listings for Bloomfield Hills area, including properties in 48301, 48302, and 48303 zip codes.

Real estate listings for Birmingham area, including properties in 35201, 35202, and 35203 zip codes.

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