

AN INTRODUCTION TO THE PROPERTY DISCLOSURE STATEMENT

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The Alberta Real Estate Association (AREA) has developed property disclosure statements designed to protect all persons involved in a real estate transaction and to encourage full communication so that, having as much information as possible, buyers will pay and sellers will receive a fair price for a property.

Unless certain important details are confirmed in writing on the property disclosure statement, sellers may have difficulty establishing that a problem was disclosed to buyers, and buyers may be unable to remember that a statement was made or that information was withheld.

How does the disclosure statement benefit the seller?

The disclosure statement assists sellers in reviewing the condition of their property. It provides a written record of the representation made or – just as important – not made. A complete disclosure statement will reduce the risk of misunderstandings with the buyers. A frequent complaint from buyers is that a particular problem was not disclosed to them prior to the purchase. Sellers should carefully consider each question so that all relevant information has been included on the disclosure statement.

It is up to sellers to decide whether they will provide a disclosure statement to buyers. However, since most sellers are also buyers at one time or another, they will likely realize the appropriateness of providing a disclosure statement. Many sellers will recognize that the disclosure statement will help increase the appeal of their property and reduce the risk of a subsequent complaint from the buyers.

How does the disclosure statement benefit the buyer?

Basic information concerning the property may not be readily apparent to buyers upon casual inspection. Sellers, who know the property best, use the disclosure statement to provide buyers with this information. It covers some common historical problem areas and gives buyers a list of points to consider in their inspection of the property. While it is rare to locate the perfect property, these particulars should help buyers determine which property they wish to purchase.

How does the real estate agent benefit?

One of the real estate agent's main tasks is to communicate information between sellers and buyers. If there is a problem, the buyers may claim misrepresentation or that information was improperly withheld. The sellers may claim they relied on the real

estate agent to provide the necessary information to the buyers. The real estate agent is caught in the middle.

Many claims can be avoided if care is taken to provide a properly completed disclosure statement to the buyers. The questions on the disclosure statement will assist the real estate agent in reviewing all relevant aspects of the property at the time the property is listed for sale, ensuring that all parties involved in the transaction have the same information.

How should the disclosure statement be used?

At the time a property is listed for sale, the sellers will complete the disclosure statement. Prospective buyers will want to review the disclosure statement, or will make an offer subject to their receiving and approving a disclosure statement within a specified period of time. Sellers will respond directly to the questions and add clearly worded comments as required to describe their property. Buyers will carefully read the disclosure statement and request additional information or arrange independent inspections as necessary.

It should be noted that the disclosure statement is **not** a warranty by the seller or the real estate agent, but rather, it acts as a starting point for buyers to make further inquiries.

What types of disclosure statements exist?

AREA has produced property disclosure statements to be used in many types of real estate transactions. The property disclosure statements that are available include:

- Urban Residential Property Disclosure Statement;
- Condominium Seller's Property Disclosure Statement;
- Commercial Property Disclosure Statement;
- Rural Residential Property Disclosure Statement; and
- Agricultural Land Disclosure Statement.

Lawsuits are expensive and frequently result from a misunderstanding, communication problem or lack of information. Using a property disclosure statement will help prevent the real estate transaction from ending up in a legal battle, saving time, money and frustration for all the parties involved.



Compliments of the Alberta Real Estate Association
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