

NON- DISCLOSURE – IT GOES MUCH FURTHER

It's not good enough for an agent to simply rely on the detail provided by a seller in a Property Condition Report and assume that if no defects are recorded and the buyer is satisfied with same that he is "in the clear" as far as non- disclosure is concerned.

NOT SO - IT GOES MUCH FURTHER

What if;

- The agent knows full well that the pool leaks like a sieve
- A buyer buys needing to be close to a medical facility and the agent knows full well that it is due to be relocated
- A buyer wants to run a business from the property but current zoning restrictions (which the agent is well aware of), does not permit this.
- A buyer asks what is planned for development across the road on an open tract of land and knows full well that it forms part of the local councils' property portfolio which as far as its zoning goes is likely to be redeveloped for affordable housing.
- Roofing experts are seen regularly on site after the rainy season
- Road widening has been mentioned which would result in more traffic than at present.

These are examples of material facts which knowing about, an agent would be duty bound to bring to the attention of a buyer.

The Code of Conduct, clause 4. DUTY TO DISCLOSE makes it patently clear that **all** factors which the agent is aware of **or should reasonably be expected to know about** must be disclosed.

So, what is being said here is that extraneous factors - other than those declared in a Property Condition Report, may be of even greater importance to a buyer with non- disclosure of same resulting in potentially devastating results for all concerned i.e.,

- the buyer suing the seller,
- the seller suing the agent
- the buyer suing the agent
- both suing the agent (jointly and severally)

The basis being punitive losses resulting from non- disclosure, and or fraudulent misrepresentation and on top of this the EAAB would certainly call for a disciplinary hearing

which may well end with the agent facing sanction or being debarred from practicing further.

Conclusion:

Far better losing a sale than your license and hefty legal bills.

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Jan 2022
