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Home Inspection Negotiations – How Do You Win?

Most of the home sales contracts that I work with these days have a home inspection contingency. This means that the buyers can have the home they want to buy inspected by a home inspector and require the seller to cure any defects that the home inspector finds. The contract provision applies to defects in structural elements, plumbing, heating, electrical, appliances, as well as environmental issues, such as mold, asbestos, and radon gas. If the seller does not wish to cure the defects, the buyers can cancel the contract and get their deposits back.

The home inspection contingency is the most frequent point at which the home purchases I work on break down. Either the seller does not wish to spend any more money to cure defects or the buyers have expectations that their sellers will make the house “perfect” for them as part of the purchase process. Because the expectations of the two sides are sometimes so far apart, it is necessary for the lawyers and the real estate agents to remind their clients of why they are in a contract. However, it is also important for the lawyers and real estate agents to protect their clients’ interests – it should not be important that the deal close if their clients’ interests will not be served by a closing.

From the sellers’ perspective, the home inspection report is typically a bad surprise. They believe they have kept their house up in good condition or they believe they have lowered their price sufficiently to compensate for a house that has not been maintained properly or not updated with the newest kitchens and baths. When a home inspection reveals problems that the buyers want fixed, many sellers balk at spending extra money or giving the buyers a credit so the buyers can fix the problems themselves. As a seller, you must be pragmatic, not emotional. In your case, if you are too cheap about fixing home inspection problems, your buyers will walk away from the deal. It is not in your best interests to put the house back on the market and try to work with a new set of buyers. For one thing, you have lost time, sometimes the best time to market your home. It costs money to carry your house until the sale closes – money in mortgage costs, real estate taxes, and possible repairs that may be needed as a matter of course. Your goal is to negotiate enough so that your buyers do not cancel the contract. How much is enough? It depends on whether the houses in your town are still losing value, whether there are a lot of other houses on the market in your price range and what the expectations are of your buyers. Certain repairs are so common that every buyer expects them. Any findings of asbestos, mold, underground oil tanks, termites and termite damage, leaking roofs, non-working appliances, wet basements, or problems with the electrical box will be expected to be repaired or cured by every buyer. This means you must fix these types of items. In many cases, the buyers will want to hire their own contractors and request a credit against the purchase price. If a defect is revealed in the home inspection report, it is now a known issue that must be

revealed in the seller's disclosures. It is in your best interest to give a little (not be the toughest negotiator) to get a lot (your house will be sold and you can move on with your life).

From the buyers' perspective, you want to ensure that major repairs are either done by the seller or that you receive some compensation for taking the house with defects. However, you may also want to give a little. It is costly to start the home buying process and not get a house in the end. You are paying for home inspection fees, mortgage application fees, and attorney fees. Although this market gives you many houses to choose from, it is possible that you have already seen what is on the market and this is the house that comes closest to your wish list. Or you may need to move from your current living quarters because of a change in circumstances and cannot wait until the perfect house comes on the market. Your lawyer and your real estate agent will advise you what the common repairs are and what problems are such a risk that you do want to cancel the contract. You should also expect that your home inspectors will point out issues that are not current defects but will become a needed repair in a year or two. Very few sellers will compensate buyers for potential problems. You should expect that the seller will not fix these types of issues. Many home inspectors will make the house sound as if it's falling down so that you will feel that they've done a good job. If the home inspection discloses a structural defect (the foundation) and the repair is very expensive, you may want to cancel the deal. It may be too much of a risk, even if the seller is willing to repair. But, especially if the house has been on the market for months, or another deal has fallen through, press the seller to give concessions. This is your best shot at getting many of the home repair issues cured or getting the money to pay for it so you can hire your own contractors.

The home inspection is one of the most important parts of the home selling/buying process. Don't let your emotions make you take a position you will regret later.