



## Step 7: Prepare Disclosures

Back in the day, home sellers could sell homes without notifying buyers of what, if anything, might be wrong with the home for sale. It was the buyer's responsibility to find out if the home had any defects requiring significant attention or repair. In some cases, the buyer did not find out that serious problems existed until s/he had already purchased the property.

The cases were frequent enough such that state governments decided it was necessary to regulate the sale of realty more than in the past. Because of sellers' general tendency not to disclose that which might cast their property in a poor light, laws in almost all states now require sellers to disclose a home's material defects.

What "material" means is still at the discretion of all parties to a potential transaction, however, it is generally defined as any information about the house that a reasonable homeowner should be expected to know and that could affect a property's value or desirability. Some states have preprinted disclosure statements that must be filled out by the seller before a sale can take place. You should check with an attorney to determine what the disclosure requirements are in your area.

As a seller, you should find out what is wrong with your house and either fix it or disclose it when you list your property. Disclosing is better than hiding. It builds trust with the buyer, and it prevents a potential sale from turning ugly. Intentional omission or negligence is grounds for canceling a purchase and starting a lawsuit.

It's best to create your disclosure statement before you list the property so that you are prepared for questions from serious, potential buyers.



Common items requiring disclosure (this list is not exhaustive):

- lead based paint presence
- asbestos presence
- radon presence
- any other health, safety, or environmental hazards
- lawsuits that could affect title to the property
- encroachments by neighbors or other easements
- remodeling or additions without a building permit
- improvements which may not follow building code
- unusual history (murder, death, etc.)
- previous damage due to fire, flood, earthquake
- house settling or foundation problems
- other structural damage to home
- Covenants, Conditions, and Restrictions (CC&R) in force
- Common areas that are shared with others and how it affects ownership





## About Inspections

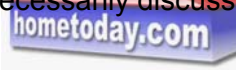
You can ascertain the existence of physical or structural damage to your property by having it inspected. It may be useful to have this performed for your own peace of mind. Buyers will appreciate seeing the inspection report as evidence of good faith effort on your part.

Recognize that you, as the seller, are not required to perform a property inspection. However, a buyer will almost definitely write a purchase offer with an inspection contingency in it. If you are confident that your home is in saleable condition, don't bother with an inspection; let the buyer obtain it. If you are unsure as to whether or not your home has problems, get one.

Some agents recommend against inspection; they would like a buyer to look at a house and like it without being dissuaded by an inspection report. They also suggest that buyers won't hold much stock in a seller-provided inspection report. You still might want to inspect to uncover material flaws, find easily fixed items, or get some helpful advice on getting the property ready for sale. Knowing what is right and wrong with your property also gives you more leverage when negotiating a final sale price.

Inspectors can tell you more about your house after a three hour inspection than you learned living in the home for several years. The inspection report you receive should discuss what needs immediate repair and what work will be required in the future.

Keep in mind that some lenders may require a home to be in liveable condition before approving a loan. An inspection report will not necessarily discuss what a repairs a potential lender might require.



Property inspections cost anywhere from \$200-\$600 depending upon the locale. You can find property inspectors in the telephone book. You could obtain a referral from your agent or other trusted person. Inspectors are preferable to contractors; inspectors might tend to be more objective. Many inspectors belong to the **American Society of Home Inspectors**, a professional organization which requires its members to have training in the field and complete a certain number of inspections before joining. You can call that organization (1-800-743-2744) to obtain a list of member inspectors in your area. Another organization you could call is the **American Institute of Inspectors** (1-800-347-2455).

Before you choose an inspector do the following:

- Get a sample report. A report which merely fills in blanks and checkboxes is insufficient. There should be some discussion about the property as well. Some people prefer typed reports to written ones as an indicator of the professionalism of the inspector. It's your call; you can probably get a feel for the quality of the report by reviewing the narrative.
- Ask whether s/he is full or part time; this might be an indicator of experience. An average annual workload for an inspector could be 100-400 inspections.
- Ask whether s/he has any certifications or licenses.
- Use an inspector that carries errors and omissions insurance. This limits your liability in the event that a buyer relies on the report and subsequently finds something the inspection report did not address.
- Get three references and contact those customers about their experience with the inspector.





- Make sure the inspector's scope is sufficient. An inspection should take 2-3 hours and should cover all structural and mechanical systems on the property. This will include all outbuildings (detached garages, barns, etc.), not just the house.

If you are selling a home in a condominium or co-op complex, you should probably have a copy of the **engineering report**, the equivalent of a building inspection. It discusses the building condition including structure, mechanicals, and the exterior and grounds. Buyers will probably ask to see it as they review the structural integrity of the complex.

Feel free to accompany the inspector as s/he reviews your property. S/he can explain to you things about the construction which you will find helpful. S/he can tell you what to fix, and sometimes may know enough about the repair to give you ballpark figures on repair costs. Ask for his/her advice about expensive repairs. Sometimes it is better to reduce the asking price or offer a repair credit at settlement (if allowable) rather than make the repair. Once you know what needs fixing on the property, you can decide what you will repair and what you will defer.



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