



Bob Aaron bob@aaron.ca

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Grow house disclosure is critical People have a right to know before buying *Mould, damage may be hidden in these structures*

Should the Toronto police maintain a public registry of homes that have been used for marijuana grow houses? Is there an obligation on a vendor to disclose that fact when selling a house?

An email I recently received from a home inspector in Durham raises the interesting question of the obligation to disclose whether a house being offered for sale was ever used for a marijuana grow operation.

David Wall, of Pillar to Post Home Inspection in Oshawa wrote to say that he had recently completed a home inspection for a young couple buying their first home in Ajax. The house was vacant and the agent was from out of town.

During the inspection, Wall immediately noticed red flags indicating that the house had been used as a grow operation. A door which did not meet building code had been cut from the garage to the living room.

Modifications were noted to the plumbing and electrical systems, the chimney and the building structure.

There was evidence that equipment had been hanging from the floor joists and there was digging in the vicinity of the hydro meter.

Wall advised his purchaser clients to contact Durham Regional Police to see if there was a history on file for this house. The police told the would-be purchasers that due to the privacy legislation, they could not disclose anything. The couple talked to a neighbour who was also tight-lipped.

Wall asked me if there was any protection for people buying these homes.

The concern is that the humidity in grow houses usually results in toxic mould and other damage to the structure which is not always visible during an inspection.

Grow houses are often sold by banks or other lenders under mortgage default proceedings, or by innocent landlords who got stuck with the ultimate "tenant from hell."

The privacy argument doesn't seem to apply to all Ontario police forces. London's police department, for example, lists local grow-op locations on its website for the world to see.

At <http://www.police.london.ca/AboutLPS/cid/CIDGrowHouseAddress.htm>, the force lists 30 properties where they have executed search warrants during the last 14 months, and the quantity of marijuana plants seized at each location.

The Winnipeg police department lists 35 locations on its website where grow operations have been dismantled. At its site (go to <http://www.winnipeg.ca/police> and click on "Drug Awareness"), you'll find a strong endorsement of the practice by the Winnipeg Real Estate Board.

A published statement from the Winnipeg Real Estate Board on the police website says, "The board and its 1,200 members commend the WPS (Winnipeg Police Service) for taking this important initiative to make the list of identified grow-ops available on this website."

I was unable to find references to any specific grow-op locations on the Toronto Police Service website, nor was I able to find mention of the topic on the Toronto Real Estate Board website. TREB used to list grow houses on its site, but removed the list after passage of the federal privacy legislation.

No news, in this case, may not necessarily be good news. Referring to the Ajax property he had visited, Wall told me: "I know what is going to happen with this house. It was taken off the market. They will finish the basement so you cannot see the altered plumbing, electrical and structure, and someone will buy this home."

"The police know, hydro knows . . . but the real victim will be the purchaser who buys this as his or her first home and knows nothing and gets no help from the people that do know how this home was used."

Barry Lebow, a Toronto appraiser recognized as an expert on real estate stigma, says, "There's something wrong when innocent homeowners . . . have to disclose UFFI (urea formaldehyde home insulation) even though UFFI was never proven to be a health hazard."

"For some reason, grow houses are not perceived to be as big a problem. The UFFI seller has to disclose but the grow house seller does not."

"The biggest rub is that the realtor, if they know about it having been a grow house, has to disclose while the seller does not. Is something wrong with this picture?"

In its manual of optional clauses for use by real estate agents, the Ontario Real Estate Association has an excellent clause relating to grow operations.

The clause has the seller warrant and represent that the building was not used "for the growth or manufacture of any illegal substances" during his or her period of ownership, and that "to the best of the seller's knowledge and belief, the use of the property and the buildings and structures thereon has never been for the growth or manufacture of illegal substances."

I've never seen the clause used, but I think it should be made part of the printed form so it would appear in every offer. No one should ever be tricked into buying a grow house unknowingly.

What do you think? Should the location of grow houses be a matter of public record or are the privacy rights of the owners more important? Should there be a standard grow house clause in agreements of purchase and sale? Should there be a disclosure requirement to protect purchasers? Send your comments to bob@aaron.ca, or fax 416-364-3818.

