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Is it right for agents to turn a blind eye to signs of grow-op?

Fred and Ginger (not their real names, of course) are looking for a Toronto home within their budget. They thought they had found the ideal house in the Kennedy Rd.-Eglinton Ave. area of Scarborough.

One of Canada's major banks listed the three-bedroom bungalow for sale at \$289,900 through a reputable real estate brokerage. It is described as "Detached bungalow with private drive ... Attention Handymen, Contractors! House needs Work."

Aware that the house was being sold under a bank's power of sale due to a mortgage default, Fred and Ginger put in an offer at \$275,000.

Attached to the offer was the bank's required schedule stating that the house was being purchased "as-is." Only one clause was added by the would-be buyers: a warranty that the house had never been used as a marijuana grow operation.

The offer was rejected by the bank and the unhappy couple was about to resubmit it without the warranty when Ginger discussed the matter with her employer, a friend of mine.

He called me in a panic to ask for my advice. I did a quick electronic title search, which revealed that the house had last been sold in January for \$333,000 and the bank in question has a mortgage of \$333,000 registered against it.

I asked a few questions about what the house looked like inside. I was told it had a funny smell, no appliances, black marks on the wall seams and wiring sticking out in odd places.

I emailed my friend a grow-op PowerPoint presentation I had prepared a while ago and he showed it to Ginger. The photos in the presentation show many of the typical indicators that a property has been used as a grow-op.

When Ginger saw the pictures, she immediately realized that the house had been a cannabis grow-op, although there was no disclosure of that fact.

When she asked the real estate agent for confirmation, she was told that the "vendor didn't know."

The question, which came to mind when I heard this, was whether it is acceptable for agents and sophisticated sellers like a bank to be wilfully blind to the painfully obvious red flags indicating a do-it-yourself horticultural operation.

The Real Estate Council of Ontario is charged with regulating trading in real estate, in the public interest. On its website (www.reco.on.ca), the council states, "Brokers and salespersons are obligated to disclose any material fact about a property or its history they are aware of that could affect a person's decision to buy."

The key words here are "that they are aware of." Brokers and agents are responsible for being familiar with the marketplace, so they are presumed to know the signs of a grow-op. RECO's website provides a list of indicators that a home may have been used as a grow-op:

- Mould in corners where the walls and ceilings meet
- Unusual number of roof vents
- Fresh paint on window frames to cover damage caused by humidity
- Circular marks on basement floors where pots once stood
- Evidence of tampering with the electric meter
- Unusual or modified wiring
- Brownish stains on the underside of beams or arches that bleed down a wall
- Concrete masonry patches
- Patterns of screw holes on the walls
- Fireplace alterations
- Denting on front doors (from police ramming the door)

Should agents be required to disclose that a house or condominium was or might have been a grow-op if they notice any of these indicators?

Or should they disclose the fact only if the seller confirms that it was a grow-op?

Would the public interest be better served if RECO amended its rules to require disclosure of material facts about a property that the agent is or should be aware of that could affect a person's decision to buy?

I'd be interested in your thoughts by fax or email.

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