

REAL ESTATE Connection

IT'S ALL ABOUT HAVING THE RIGHT CONNECTIONS

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A Lawyer's Perspective

Condition, condition, condition

BY DENNIS SCARDILLI

What gives? I thought the mantra for real estate was “location, location, location!” True, but think about this as an owner. If you can’t afford to pick up your 50-year old Upper Township rancher and move it to Avalon’s high dunes for the summer and to a gated community on Diamond Head for the winter, think condition.

Whether you are going to keep your house for the next 50 years or put it on the market tomorrow, you can do something about its condition. You can’t do anything about its location. That’s true across the board, so let’s open up the discussion a bit to include investment properties.

Condition becomes a legal issue because New Jersey is not a “mandatory disclosure” state for a real estate conveyance. Some states, such as California, have a mandatory checklist of condition disclosures. In New Jersey, standard contracts of sale typically have clauses that address various condition issues, but the disclosure standard is more subjective than objective. All the more reason to take heed, early and often, in regard to the condition of your property.

Where to start? I’m a lawyer so I have to say, “It depends.” There are key issues in the transfer of a property: the marketing aspect, which includes “curb appeal;” and, the disclosure aspects, which includes both functional and safety repairs. Both are important for different reasons.

If your property has the curb appeal of the Adam’s Family “mansion” and your Realtor gets back in the car and drives off, you had better do something about curb appeal. No matter whether the “guts” of the property are solid or shaky, that first mental picture sets the

stage for future negotiations in a transaction.

Even if the property’s curb appeal makes the White House Rose Garden look shabby, a crumbling infrastructure will not only cost you more money in the future. It may cause dangerous conditions on the property that could injure someone you invite, or even an unintended visitor. Hello, personal injury lawyer.

There are numerous means of financing the upkeep of your property. Some municipalities have funds for neighborhood improvement programs. These range from home improvement grants or loans to cutting edge ideas like Atlantic City’s proposed “Bader Field Trust Fund”, which could have the indirect effect of freeing up tax dollars for home improvements. Investigate home equity loans and refinancing, but be leery of the lender who asks you “what do you think the property is worth?” Whatever you do, don’t over-improve and don’t over-finance.

Get started by doing your own physical conditions survey. Do your property’s issues require “Dr. House” or the “Scrubs” team?

With potential major problems, consider springing for a home inspection. If your property has dangerous conditions, a good home inspection will cost you less than a couple of billing hours by a good lawyer.

Even if you are thinking about selling in the future, start sooner, rather later. If your property is on the market now, the buyer will hire a home inspector who will find the problems anyway. You could then be faced with subsequent sales price re-negotiations or a surprisingly large repair deduction at settlement. Worse, that inspector may not find a problem and you will face a lawsuit in the future. Be proactive.

If you hire a home inspector for any of the

above reasons, look for a true expert. Ask for references from disinterested parties. Find out if the home inspector has hands-on experience as a tradesperson. How long have they been in business? What level of detail will go into in their report?

Remember you want a real, objective analysis of the property. You don’t want to use the home inspector for any identified repairs, and the true experts won’t do that anyway. Find a reputable tradesperson, for each trade, to estimate repair cost. You may have to pay for the estimate if it involves a transaction or if they are in a busy season.

If there is a significant amount of money involved, such as in refinancing for property repairs, planning on selling or doing estate planning, hire a reputable real estate appraiser to estimate the value of the property before and after the repairs. If not, you may be able to discuss this with a trusted, knowledgeable Realtor. If you spend more than the increase in value, at least do so with open eyes and for a good reason.

Next week, we’ll look at the process of obtaining governmental approvals for any repairs or renovations to a property. In the meantime, think about the new mantra: “Take care of your property and your property will take care of you”.

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