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A Lawyer's Perspective

(How to find) what condition my (property) condition is in

BY DENNIS SCARDILLI

Before we proceed, please forgive me for diverging from my "closing statement" last week. I said I would look at the process of obtaining governmental approvals for repairs or renovations to a property. An e-mail from a reader caused me to realize that we needed to talk more about determining property condition. So, being a child of the '60's, "condition" triggered the old song in the title of this article.

Those of us who are "experienced" enough to remember the 1968 Kenny Rogers hit may not remember that the intent of the song was to warn about the dangers of psychedelic drugs. Trying to do your own assessment of a property's condition is nowhere near as dangerous, but you may be similarly fooling yourself if you attempt to do it by yourself. Whether the purpose of your concern is to prepare your own property for marketing, as due diligence for a contract of sale on a property you are purchasing, preventative maintenance or even a decision on whether to sell or hold a rental property, get an accurate and objective analysis of the property's condition.

Do you need to hire some one to do this? To make that determination, ask yourself the following questions. Do I like to walk on a steeply pitched gable roof? Do I like to go into dark, spider web laden, claustrophobia-inducing crawl spaces? Do I like the feel of loose fiberglass insulation in my hair and on my skin? And, for those with a wild "back 40", do I enjoy checking my skin for ticks after searching for the septic field or determining if any of the various definitions of wetlands exist on my property? Would I have a clue if I saw something wrong anyway?

If your answer, like mine, is "no way", then

pony up the price of hiring professionals to determine your property's condition. The benefits could far outweigh the costs.

Let's start with the basics. Is the property in question a single family home or a small (1 to 2 story, under 5,000+/- square feet), wood frame commercial building? Then consider using a state licensed home inspector to analyze the condition of the improvements. Wetlands, bulkheads, land use compliance and larger, more complex commercial properties require other professionals and we will address those issues in separate articles.

Start your search for a licensed home inspector on the NJ State Division of Consumer affairs website: <http://www.state.nj.us/lps/ca/nonmedical/hiac.htm>. State licensed home inspectors must either complete 180 hours of education including 40 unpaid hours of supervised on-site home inspections, or 250 supervised paid inspections, successful completion of the National Home Inspector Examination and proof of insurance.

State licensed home inspectors are required to complete 40 hours of continuing education annually. Unfortunately, the Consumer Affairs website does not contain a list of home inspectors by geographic area within the state. However, you can look up inspectors by their individual (not company) name to determine their licensing status. The Consumer Affairs website also has links to home inspection professional association websites where you can search those group's members by geographic area. You should also ask your colleagues Realtors, friends, etc for recommendations.

Once you have identified several potential

candidates for your assignment, ask each one how long they have been in business, about their background and the level of detail they put into their report. Obtain personal references. If they are at all defensive about your questions, say "thank you" and make the next call.

You will want an objective, detailed report. Multi-million dollar refinancings often require separate reports on property conditions and repair costs. Use that standard for your home or small commercial property.

Learn from the pros. Objectivity is an important factor in determining who to use for a property condition analysis. Have a home inspector identify issues that require further investigation. Then ask reputable tradespersons for a written estimate.

Christopher Stankus, a South Jersey home inspector for 19 years, wrote to thank me for my article on property condition. He pointed out that a home inspector's role is not to provide a cost estimate for the issues they identify in their report. Further, that even "ball park" estimates are not appropriate since they can lead to unexpected costs later on. He characterized the home inspector's role this way: "We get paid to find out if there are problems with the property. Not to estimate the cost to fix the problems."

Dennis A. Scardilli is an attorney-at-law in the Atlantic City area. The information in this article has been provided only for informational and educational purposes and is not intended to provide legal advice. For legal advice on this or any other topic, contact a qualified attorney.