

Legal Questions & Answers

March 2016

Question: A personal representative of an estate is exempt from Oregon seller's property disclosure requirements. If they choose to have a pre-inspection prior to marketing a home, is the personal representative obligated to disclose any material defects discovered in the inspection?

Should they share the pre-inspection report as a form of disclosure or can the personal representative claim the exemption and not disclose the discoveries in the pre-inspection report?

Is the listing broker become to disclose known defects if they review the home inspection performed prior to marketing? Should the listing broker review the report?

Answer: A personal representative is exempt from providing the property disclosure statement to a buyer once he or she has been appointed by the court. However, both the personal representative and listing broker are obligated to disclose all material defects to the buyer and selling broker, regardless of whether the personal representative qualifies for exemption from providing the property disclosure statement.

Question: Is it good practice for the buyer to attach a copy of the home inspection report to the buyer's repair addendum, for the requested repairs, or should they summarize the relevant portion of the home inspection?

If the buyer does provide the home inspection report to the seller and the transaction fails, does the seller need to disclose items that have now been discovered and does the seller need to complete a new seller's property disclosure statement based on the home inspection report?

Answer: Although it is not necessary to attach copy of the home inspection report or the report summary to a repair request, it can be helpful in specifically identifying the requested repair.

As to your second question, if the seller and listing broker have received a copy of the buyer's inspection report, they will be obligated to disclose any material defects to future buyers that were identified in the report. Accordingly, it would be appropriate for the seller to revise his or her property disclosure statement in order to accommodate the additional information.