

Legal Questions & Answers

July 2015

Question: Our buyer has recently been informed by his insurance agent that two expensive insurance claims have been made on the property. Neither of these claims were noted on the seller's disclosure statement. The listing agent informed our office that the sellers had forgotten about these claims when they completed the disclosure statement. As the timeframe to unconditionally terminate the transaction has long expired, does the non-disclosure of these insurance claims provide sufficient grounds to terminate the transaction?

Answer: One could argue that the discovery of previously undisclosed information entitles the buyer to terminate the transaction, as the seller may have materially misrepresented the property. The insurance claims in and of themselves do not necessarily constitute a material defect. However, if these claims impact the future availability of insurance coverage or involve previously undisclosed repairs, then they may be material in nature. The lack of disclosure may not directly relate to the five day time period associated with the property disclosure statement unless the seller wishes to issue an amended property disclosure statement, in which case the buyer would have five business days to revoke.

Question: Is a carbon monoxide detector required to be installed at the time of sale in a residential transaction if the home has no carbon monoxide source?

Answer: A seller is not obligated to install a carbon monoxide detector upon sale of a residential property unless the property contains a carbon monoxide source, such as an attached garage or a fireplace as defined in ORS 105.836.

Question: If an agent wishes to market themselves, are there certain guidelines that must be followed regarding advertising the agent's brokerage as well?

Answer: Pursuant to OAR 863-015-0125, all advertising must include the name of the brokerage in a conspicuous, noticeable, and prominent manner. Thus, an individual broker may not simply advertise his or her own name without also advertising the name of the brokerage with which he or she is licensed. However, the advertising does not need to include contact information for the broker or brokerage.