

ASK THE INSPECTOR

Job done to please agents may not be the best for buyers

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Question: As an expert witness in construction defect lawsuits, I see many cases involving home inspectors who fail to disclose defects or who minimize the findings in their reports. In most cases, these inspectors are members of the California Real Estate Inspection Assn. or a similar organization.

One inspector confided that too many problems in his report might "kill" a sale and the agent would no longer recommend him to buyers.

Another inspector said he was expected to "work with the agents," not to raise red flags or be too nit-picky.

This is disturbing, because home inspector referrals come mainly from agents. It also indicates that inspector organizations are not policing the industry very well.

Perhaps CREIA or their insurance carriers could maintain a database of court rulings against inspectors and agents. The industry needs to do its job before the government steps in.

Answer: Your position as an expert witness exposes you to the worst examples of the home inspection and real estate sales industries.

Without doubt, there are ethical disparities and conflicts of interest among some agents and home inspectors, and it is these unprincipled relationships that engender so many of the courtroom cases in which you testify.

Basically, there are two kinds of real estate agents. Advocates are honorable standard-bearers who represent the best interests of their clients, actively promote the defect disclosure process and recommend only the most qualified home inspectors. Advocates would rather kill a sale and find a better property than to have the client unhappy after the sale. Advocates know that doing the right thing attracts future business.

Unfortunately, there are also those who jeopardize the interests of home buyers, who keep attorneys busily employed and who boycott the most qualified home inspectors.



<http://www.independentinspectors.org/>

They represent their own financial avarice at the expense of their clients. They compromise the disclosure process by seeking those inspectors who are less likely to provide full defect disclosure. They recommend inspectors who are less experienced, less capable or who are willing to exchange principal for increased business.

Among home inspectors there are also two basic varieties: experienced practitioners and developing practitioners. But even within these divisions, we find the same ethical contrasts that define agents: either a total commitment to the client's interests or a general disregard for them.

Adversely affecting this critical choice is the general reliance of most home inspectors upon agent referrals for the majority of their business.

Agents understand this, and some have learned to exert subtle pressure.

It frequently is not even overt; just a simple comment such as, "We just want to know that everything is structurally sound, so please don't be especially nit-picky."

Another is, "This deal is important; so we need a really good report."

Inspectors who don't accede to these coded and not-so-coded messages or who are fully committed to the buyers' interests probably won't receive future referrals from those agents.

As to the consumer advocacy of CREIA and similar organizations, integrity among member inspectors can be influenced and encouraged, but it cannot be forced.

A database of inspectors and agents who have been successfully sued could be published, but would this be a reliable determinant?

We live in the age of frivolous lawsuits. If the seller of a home fails to disclose a defect that was unknown to the agent and concealed from the home inspector, the attorneys still name the agent and the inspector as defendants in the suit. And sometimes the juries rule against them.

"Buyer beware" remains the essential caveat for those who purchase a home.

The best way a buyer can beware is to find an "advocate" for a real estate agent and a home inspector with a reputation for thorough, accurate and unbiased inspections.

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