

## Tips for Avoiding Surprise Defects

A homebuyer in the hills above Oakland, Calif., recently closed on a home that matched her wish list almost perfectly, which is as good as it gets. Before closing, the new home was inspected and no major defects were discovered.

The buyer had plans for upgrading, starting with removing all the wall-to-wall carpets. But when the carpets were pulled up, the house began to smell of cat urine.

The new owner called her agent, who recommended several people who have experience eradicating pet odor. Within a week, the odor was gone; the buyer was happy and continued renovating her new home.

Another homebuyer was not so lucky. She also bought a house where cats had urinated in virtually every room. The sheetrock and flooring had to be replaced. The remediation cost was in excess of \$250,000. She hired a lawyer, went to arbitration, and won.

As hard as you try to discover all defects before buying, it's impossible to know everything even if the seller is honest and the house is thoroughly inspected. This doesn't just apply to older homes. New homes sometimes have construction defects that aren't readily apparent.

What should you do to keep yourself from ending up in a situation like the two described above?

**HOUSE HUNTING TIP:** Make sure that you are involved in the inspection phase of your purchase. This includes attending inspections and asking the inspector questions. If you don't know what to ask, talk to friends who bought recently. Find out if they discovered unexpected surprises after they moved in.

Your real estate agent should be able to provide a list of red flags that could indicate serious problems. Ask your agent if he or she has been involved in any unpleasant after-closing situations, and if there could have been anything done before closing to prevent this.

Home inspection, engineering, drainage and termite reports often include recommendations for further inspections. And they note items that won't be inspected, like a sauna or irrigation system.

Real estate brokers often give buyers a disclosure document advising them to inspect the property carefully. The disclosure might also indicate important issues that agents

will not be looking into, like checking the permit record.

Don't be fooled into thinking you don't need to follow up on these issues because the house looks fine. You could get lucky, but I wouldn't count on it. In fact, disclaimers detailing the limits of inspectors' and agents' responsibilities make a strong case for taking charge of your due diligence investigations.

Don't be shy about asking questions. For instance, if the sellers have pets, ask if there are, or have been, any odors or damage attributable to the pets. If you're concerned about drainage, ask the sellers if they've had any water problems. If so, what have they done to correct the situation?

Find out if the house has recently been carpeted or painted. Document your conversations. Better still, ask the sellers to put any pertinent disclosure in writing, even if it's just an e-mail. Keep this documentation in your transaction file.

The first thing to do if you discover a serious defect after closing is to review your transaction file and make sure this wasn't already discovered during inspections or disclosed to you by the sellers. If the documentation reveals nothing, make your agent aware of the problem and ask her to talk to the listing agent so that the sellers are aware of the situation. It will cost less time, money, and aggravation if you can resolve the issue without having to go to arbitration or court.

**THE CLOSING:** If this doesn't work, consult with a knowledgeable residential real estate attorney about how to proceed.

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