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Fraud, False Advertising, and Misrepresentation Claims in Home Sales



How The Spring Melt Can Lead to a Flood of Litigation for Wisconsin Home Sellers

By Russell J. Karnes

Most people are relieved and ready to move on to the next phase of their lives after going through the long and stressful process of selling a home. Buyers and sellers typically have had very little direct interaction with each other during the sale process, and most sellers assume that they will never hear from the buyers again.

But as sure as the first warm sunny day will melt the winter snow, so too will Wisconsin's real estate litigation start heating up this spring. Because with all that melting snow comes another sure sign of spring in Wisconsin: damp and leaky basements. In some cases, last season's real estate buyers are surprised to find out that their new home's basement is no longer dry. So some buyers decide to sue the sellers after realizing how much it's going to cost to fix their leaky basements.

Sellers are often shocked when they receive a demand letter from a lawyer sent on behalf of the buyers; or worse yet, when they are served with a summons and complaint alleging breach of contract, false advertising under § 100.18, and fraud or misrepresentation under § 895.446 and § 943.20. Sellers assume that because they filled out a real estate condition report at the time of sale disclosing what they knew about the property, that they should be immune from lawsuits.

However, even when sellers filled out a real estate condition report, buyers and their lawyers may still be demanding thousands of dollars as compensation to fix damp or leaky basements, cracked foundations, or other property condition defects that were supposedly never disclosed by the sellers. Buyers may also be demanding treble (three times) and exemplary (punitive) damages and requesting that the sellers reimburse them for their attorneys' fees. All this can lead to a large judgment against the sellers if they don't respond and defend themselves in court.

What can sellers do to protect and defend themselves after being accused of failing to disclose defects or misrepresenting the condition of their home?

After sellers get over the initial outrage and disbelief of being accused of fraud or misrepresentation by the buyers, they are left to wonder how to respond to the buyers' demand letter or lawsuit? That's why sellers need experienced Wisconsin real estate and civil litigation attorneys on their side to help them through this difficult process.

If you find yourself in need of the advice of a Milwaukee or Wisconsin real estate attorney with a failure to disclose, breach of contract, false advertising, fraud or misrepresentation claim, contact one of the attorneys at Gimbel, Reilly, Guerin and Brown LLP to discuss your case. Call 414-271-1440 and schedule a consultation today. www.grgblaw.com

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