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## Disclosure is Alive and Well in California

By Don Odell

The latest scuttlebutt on the real estate front in Lamorinda is that home values are down about 10% from a year ago at this time. As a contrast, average overall home values in California are down 40%. So taking the good with the bad, it appears that the existing Lamorinda home market, though bruised and slightly battered, is still standing and hopefully with the spring market will be looking at making a comeback.

So, as we collectively begin to again look at residential real estate in town as the investment that it is, what should be we be thinking about when buying or selling a home? We should be thinking about not only whether it makes financial sense, we should be thinking about what exactly it is that we are about to buy or sell.

Residential home sales are complicated and controlled by a myriad of statutes and regulations, not the least of which are the disclosure requirements. To guide us through this maze, the obvious first step is to hire a good realtor and luckily we have some of the best here in Lamorinda. But even with a good realtor on your team; you still need to approach the transaction with your eyes open.

As your realtor will tell you, generally every transaction involving the sale of a single family home requires the seller to disclose to the buyer all that he or she knows about the property. These disclosures are usually made by use of a standard form Real Estate Transfer Disclosure Statement prepared by the seller with the assistance of the seller's agent.

Although these disclosures are suppose to be accurate and complete, they should not be used by a buyer at the exclusion of, or in place of the buyer's own due diligence in investigating the condition of the property. Even with a disclosure statement in hand, buyers should still work with their realtor to determine what inspections need to be made of property and who should be hired to those inspections. Buyer's who following these basic steps will likely find that the cost of the inspections was well worth it in the long run.

But what do you do if you've already bought a house and now realize that the property is not in the condition you thought it was when you bought it? Don't despair, there still is hope, even if you bought the property "as-is."

California law protects you the buyer by setting strict disclosure guidelines on sellers and by establishing standards of performance to which professional inspectors must adhere. If the seller failed to adhere to these disclosure guidelines or your inspector failed to conduct a competent inspection, he or she may well be liable to you for the cost of repairing your home; even if you purchased the home "as-is" or through a foreclosure.

If you purchased a defective home, don't ignore the defects as delays will only complicate matters and could act to bar your right to seek recovery of damages. Seek out professional help to assist you in understanding the extent of the problems and your legal options; you may be pleasantly surprised to find that your problems may not be as bad as you think and you may be able to recover the cost of resolving those problems.

Don Odell is a licensed California attorney, residing in Orinda, with fifteen years of experience in the representing homeowners and contractors throughout the Bay Area in construction related litigation. If you have questions concerning the subject or this article,

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