

Who is responsible for repairs during home sale?

By Metro Creative Connection

Many questions arise during the home-buying process. Buyers looking at homes that require a good deal of TLC may wonder who is responsible for the home's repairs, particularly if such repairs are needed to secure a certificate of occupancy. Depending on the situation, there is no clear-cut answer.

There is no perfect home, and things that are acceptable to the current owner may not be acceptable to the buyer who is looking to become the next owner. The home-buying process is typically a careful cooperation between buyer and seller to find a middle ground. The buyer may have to make some concessions, as will the seller. Ultimately, it is this cooperation that often determines if the sale goes through or is terminated.

Before any negotiations can begin regarding repairs, it is advisable for a buyer to have an independent inspector come out and look over the home and property. Most real estate agents will suggest this be done as a first priority -- even before a contract is entered on the home. An inspection will unveil any potential problems in a home and indicate things that the buyer may not be aware of, including items that do not meet with code or could be unsafe. An inspector also may point out problems that could cause a mortgage lender to give pause. This may mean the lender will deem problems unsafe and refuse to fund the mortgage until repairs are made.

A copy of this inspection report should be sent to the home seller to review with his or her attorney and real estate agent. The buyer working with his own real estate attorney and agent can petition for certain repairs to be made. Many sellers will make such repairs to ensure the purchase goes through, or they will accept a lower purchase price to compensate for the needed repairs, which the buyer will then make. Buyers might want to hire a good real estate attorney to write clauses into the contract to protect their interests. This allows the buyer to forfeit the sale and walk away from the contract should an issue arise.

The rules often change when buying a home that is a short sale or in foreclosure. A home that is in distress is typically in this situation because the current owners cannot afford to pay their mortgage, and thusly, are not able to afford repairs. According to Think Glink, a money-management Web site, buyers may try to negotiate repairs with the seller, but they shouldn't assume that sellers (or lenders in the event of a bank-owned home) are responsible for the repairs. Generally speaking, most short sales and foreclosures are sold "as is" and may even specify that repairs and requirements for the certificate of occupancy are the buyer's responsibility. A buyer also can ask to have the home price reduced to cover the repairs. But



Home buyers may be able to negotiate that the sellers repair major structural issues, such as a leaky roof. If not, negotiate a lower sale price.

foreclosures are often already deeply discounted.

Buyers should know that, for a home that is not in foreclosure, there are some repairs that should ultimately be the responsibility of the seller. If these repairs are not made, a buyer should think strongly about walking away from the deal, according to Why6Percent.com, a real estate marketing site. Such repairs include:

- lender-required repairs that could impact home safety
- leaky pipes
- water penetration issues, including a bad roof

- unsafe decking or handrails
- wet basements or crawl spaces
- insecure foundations or obvious structural damage

- poorly functioning sewer lines or septic system

It is always advisable for buyers to speak with a reliable real estate attorney and a trusted real estate agent to guide them through the process of buying a home. These people can help buyers navigate the important decisions that can affect the home they'll be living in for the next several years.