

Did Someone Say Sinkhole?



the facts

Risk Factor #1

Ms. Lee should have disclosed the information she received from the neighbor. Facts that materially affect the value of the property which are not known or are not discoverable upon reasonable investigation by the buyer need to be reported. Even an anonymous phone call should have been investigated and disclosed.

Ms. Lee, a real estate agent with Flashlight Realty, listed Mr. Robertson's property for sale. During the process, Mr. Robertson did not submit any material facts to be disclosed to a buyer. However, a month after the property was listed, Ms. Lee received a phone call from a man claiming to be the next door neighbor of Mr. Robertson. The neighbor claimed there was a sinkhole on the property and the previous year he filed a claim with his insurer but it was denied because it was said to be "normal settlement." Ms. Lee asked the neighbor to provide her with a copy of the claim and sinkhole determination, but he did not follow through. When approached about this issue, Mr. Robertson said that no one ever mentioned a sinkhole. Mr. Robertson filled out the disclosure form in good faith and said he never had any settlement issues with the house.

A couple of months after the property was listed an offer was made by the Adams'. The offer was accepted and then the home was inspected. Ms. Lee was not present during the home inspection. No problems were reported after the inspection and Mr. Robertson and the Adams' proceeded to close on the property.

After moving into the property, the Adams' discovered cracks in the walls and ceilings which had been concealed by paint and crown molding. They also claimed to have learned about the sinkhole on the neighboring property, including a grout hole just eight feet from one of the bedroom windows of their house.

The Adams' found out that Ms. Lee was made aware of the sinkhole before the final sale. Ms. Lee explained that she received an anonymous call from the neighbor but never received documentation of the claim. However, the Adams' stated their neighbor gave them a copy of the sinkhole report.

the result

The Adams' sued Flashlight Realty for failure to disclose known issues with the property. The Adams' won the case and were awarded damages plus fees and costs. The case was settled for \$200,000 in damages.

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Risk Factor #2

Ms. Lee should have been present during the home inspection or at least obtained a copy of the inspection report for her documents.



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