

When buying a home, be alert to latent defects

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SPECIAL TO THE GAZETTE

Real estate is commonly referred to as one of the most secure financial investments people can make in their lifetime. So it's no surprise that purchasing a home can be a wonderful experience both emotionally and financially. But while you may be basking in the glow of your new acquisition, problems can be lurking out of sight in the form of latent defects.

"Latent defects can be described as defects found in a property after its purchase that the buyer could not have seen with his or her naked eye," said Sylvan Schneider, an attorney specializing in real-estate law at his firm, Schneider Attorney Inc.

There are three specific criteria that need to be met in order for a defect to be considered latent from a legal perspective. The latent defect must: not be obvious to a prudent buyer or inspector; have existed at the time of the



COURTESY OF SYLVAN SCHNEIDER
Sylvan Schneider, a Montreal lawyer specializing in real-estate law.

purchase but not been noticed until after the transaction; and be such that it would've had an impact on the buyer's final offer, or decision to purchase the property entirely. In other words, had the buyer known about the latent defect, he/she would've asked for a reduction in purchase price, or would have walked away from

the property, leaving the offer null and void.

Prior to buying a property, it's important to hire a qualified inspector to ensure that you're well-informed on the state of the property and its major systems.

"If you're negligent in verifying the various aspects of a property outlined in the pre-inspection report, particularly if it recommends contacting an expert, and/or further investigation of certain elements such as plumbing, electrical or foundation, it will not serve as a defence if it's later discovered that the property contains latent defects."

Latent defects can be as broad as water infiltration, foundation problems, plumbing and electrical issues, and so on. If you feel you've discovered a potential latent defect, there are certain steps that you should take.

"The first thing to do is take dated photos, and then call in an appropriate expert in the field to investigate, and a general contractor or licensed repair per-

son to give you cost estimates," Schneider said. "Once those steps are complete, you should consult a real-estate lawyer to advise you on the legal ramifications."

After the discovery of the latent defect, it is imperative to denounce the latent defect to the seller via a letter within a period of six months.

"The primary goal of sending the letter and putting the seller in default is that it allows the seller the opportunity to inspect the latent defect and, if necessary, hire an expert to evaluate whether the claim of a latent defect has merit," he explained.

It's also very important that when buyers find a defect, they don't do the repairs prior to providing the seller with the chance to visit the property and inspect it — unless, of course, the situation requires emergency repairs.

"If the buyer makes the repairs prior to allowing the seller to inspect the property it could impact the potential for success of the buyer's lawsuit," Schneider

said.

In the event that a seller and his or her expert examine the latent defect, the seller may decide on any one of the following scenarios: a partial or full admission of the latent defect, which could be in the form of a monetary sum or co-ordination of the actual repairs paid by the seller; or a denial of any type of responsibility of the latent defect in question.

In the event that the buyer decides to sue the seller for the latent defect, he or she must do so within three years of its discovery. And while a lawsuit is an option, it's important to consider that legal action has financial burdens and emotional consequences for the parties involved.

"It's for this very reason that contacting an attorney when discovering a latent defect is paramount," Schneider said. "Latent defects are a growing reality that both buyers and sellers must face as the real-estate market continues to be active."

COLOUR | 'Blue is the new neutral'

CONTINUED FROM G4

"It has an amazing quality and can be adapted for nearly any space, whether used as an accent or for an entire room," Jackie Jordan said.

Benjamin Moore chose to lean more toward the blues than purples.

"For the first time, we saw all the blues competing to be colour of the year," said Sophie Bergeron, director of colour and design at Benjamin Moore, which chose Breath of Fresh Air as its colour of the year. The baby-blue shade is very adaptable.

"Consumers may think you'd only use this hue for a little boy's bedroom but no, it's great in the dining room, living room, on the ceiling, in the kitchen.

"Blue is the new neutral.

"It's all about balance and proportion — you're not going to put it everywhere. You can mix and blend it with something else."

Garry Belfall explained how choosing colours for the year varied vastly for the two

brands he works with.

"Laurentide and PARA markets are different," he said. "Quebecers are the most fashionable in Canada and have that style that is uniquely theirs, so we had to develop a different colour trend for Laurentide that reflects that.

"Our Clarity palette is a very ultra-modern reflection on colours and it's a very

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Garry Belfall

sophisticated palette for Quebecers."

Grays and sandy hues complement deep dark midnight green and other bold reds and blues to make it a very con-

temporary palette; there's a high contrast that is key with simple hits of colour next to monochromatic details.

PARA, however, turned to the tried-and-true timelessness of yellow.

"We did some demographic studies to see how colour relates within these various regions and Plantain Chips scored very highly," Belfall said of the milky yellow hue that is PARA's 2014 colour. "It resonated more in Ontario and out west, but in Montreal as well — so we decided to choose this bright colour for PARA."

The wonderful thing about the colour trends for 2014 is that they're extremely versatile and can be paired with a number of other colours as well as any decor style.

"What we see in general is that there are a lot of bright colours (that come) with the optimism of our economy, and that people tend to decorate in accordance with their moods," Belfall said.

"The one trend (that resounds) all over the world: Express yourself!"



COURTESY OF LAURENTIDE PAINTS

Laurentide's Clarity palette is geared toward Quebec consumers — a sophisticated, ultra-modern palette that leans toward greys and sandy colours to complement deep greens or blues and reds.

Mortgage rates*

| Financial Institution | Type | Variable | 6 months | 1 year | 2 years | 3 years | 4 years | 5 years |
|--------------------------|--------|----------|----------|--------|---------|---------|---------|---------|
| Alterna Bank | 3.75 | 4.00 | 3.09 | 3.14 | 3.19 | 3.35 | 3.45 | |
| Alterna Savings | Closed | 3.75 | 4.00 | 3.09 | 3.14 | 3.19 | 3.35 | 3.45 |
| Bank of Montreal | Closed | 4.00 | 4.00 | 3.14 | 3.04 | 3.85 | 4.64 | 5.24 |
| Bank of Nova Scotia | Closed | - | 4.55 | 3.75 | 3.89 | 3.99 | 4.39 | 4.99 |
| CIBC Mortgages | Closed | 4.00 | 4.45 | 3.09 | 3.04 | 3.75 | 4.59 | 5.24 |
| Caisses Desjardins | Closed | - | 4.40 | 3.14 | 3.24 | 3.85 | 4.64 | 5.24 |
| HSBC Bank Canada | Closed | 4.00 | 4.45 | 3.60 | 3.95 | 4.45 | 4.99 | 5.34 |
| Home Trust Company | Closed | - | 3.95 | 2.89 | 2.89 | 3.09 | 3.39 | 3.29 |
| ICICI Bank Canada | Closed | - | - | 3.15 | 3.65 | 3.64 | 3.69 | 3.89 |
| ING Direct | Closed | - | - | 3.19 | 3.24 | 3.49 | 3.69 | 3.99 |
| Investors Group Trust | Closed | - | 4.20 | 3.14 | 3.14 | 3.90 | 4.64 | 5.24 |
| Laurentian Bank Canada | Closed | - | 4.40 | 3.14 | 3.14 | 3.85 | 4.64 | 5.24 |
| London Life | Closed | - | 4.20 | 3.14 | 3.14 | 3.90 | 4.64 | 5.24 |
| Manulife Bank | Closed | 3.50 | 4.45 | 3.00 | 3.05 | 3.10 | 3.40 | 3.59 |
| National Bank | Closed | - | 4.40 | 3.14 | 3.14 | 3.95 | 4.64 | 5.24 |
| President's Choice Fin'l | Closed | - | 6.19 | 3.39 | 3.24 | 3.59 | 3.69 | 4.09 |
| Royal Bank of Canada | Closed | 4.00 | 3.14 | 3.14 | 3.04 | 3.75 | 4.64 | 5.24 |
| T-D Mortgage | Closed | 4.00 | 4.00 | 3.09 | 3.04 | 3.75 | 4.64 | 5.24 |

*Rates as of Feb. 17, 2014

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