

Seller Disclosure Act – Class Handout

Introduction

The Seller Disclosure Act was created by the Michigan legislature in 1993. Prior to the Act becoming law, most communication regarding the condition of a home was verbal. Often, buyers would ask their buyer's agent a question about a prospective property. That agent would in turn ask the listing agent and that agent would ask the seller. As you could imagine, because the answer was transferred verbally through so many people, it was possible to miscommunicate – either intentionally or accidentally an incorrect or insufficient answer. The Seller Disclosure Act created an obligation on behalf of the seller to make a written statement regarding the condition of the property.

Who and who doesn't require a Seller Disclosure

The Seller Disclosure Act applies to all real estate consisting of 1 to 4 dwelling units being sold, exchanged, land contracted, leased with an option, optioned to purchase or transfer of any interests.

There are a few exceptions when a Seller Disclosure is not required:

Sale of new construction (never inhabited) by a licensed builder

Transfer by court order

Transfer by foreclosure sale

Transfer by bankruptcy

Transfer between co-tenants

Transfer between a spouse, parent, grandparent, child, or grandchild

Transfer to ex-spouse through divorce decree

Transfer to/from any government entity

If the seller delivers the written disclosure to their agent or to the buyer's agent, it is considered delivered to the buyer.

The rules regarding the timing of delivering a Seller Disclosure are:

Must be delivered prior to the execution of a binding contract.

Must indicate seller compliance on the purchase agreement.

Buyer may terminate purchase agreement if delivery of disclosure is not received within 72 hours.

A buyer's right to terminate purchase agreement expires upon completion of the transfer/ transaction

A seller is not liable for any error, inaccuracy or omission in the Seller Disclosure provided:

Information was not within their personal knowledge.

Information was provided by public agencies.

Information could only be obtained through inspection of inaccessible areas.

Information could only be obtained by a person with expertise in a science or trade beyond the knowledge of the seller.

A seller must:

Exercise ordinary care to transmit information accurately.
Deliver information provided by a public agency.
Deliver information provided by a licensed expert in matters pertaining to their field of expertise.
Provide information that is known to the seller to be contradictory to any information provided by public agencies or licensed professionals.

A seller may:

Update a disclosure that becomes inaccurate.
Advise a buyer that any required item on the disclosure is unknown to the seller provided the statement is based on the best information available.

Instructions to complete the Seller Disclosure form are:

The seller must answer all questions.
Report known conditions affecting the property.
Attach additional pages with your signature if additional space is required.
Complete this form yourself.
If some items do not apply to your property, check NOT AVAILABLE.
If you do not know the facts, check UNKNOWN.
Failure to provide a purchaser with a signed disclosure statement will enable a purchaser to terminate an otherwise binding purchase agreement.

Additional rules regarding the Seller Disclosure

Sellers: A seller must act in good faith, to be honest. Sellers have the right to amend their disclosure in writing.

Agents: A seller's agent is not be liable for any violation of this act by a seller unless the agent knowingly acts in concert with a seller to violate this act. Also, copies of the Seller Disclosure form must be made available to the public

Municipalities: A city, township, or county may require additional disclosures beyond the Seller Disclosure form in connection with a transaction.

General: A transfer/transaction shall not be invalidated solely because of the failure of any person to comply with the Seller Disclosure Act.

Availability of copies: Copies of the completed form shall be made available to the public by all real estate brokers and real estate salespersons.

Property Address: _____ Street _____ City, Village, Township _____ Michigan

Purpose of Statement: This statement is a disclosure of the condition of the property in compliance with the Seller's Disclosure Act. This statement is a disclosure of the condition and information concerning the property, known by the Seller. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering or any other specific area related to the construction or condition of the improvements on the property or the land. Also unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. **This statement is not a warranty of any kind by the Seller or by any Agent representing the Seller in this transaction, and is not a substitute for any inspections or warranties the Buyer may wish to obtain.**

Seller's Disclosure: The Seller discloses the following information with the knowledge that even though this is not a warranty, the Seller specifically makes the following representations based on the Seller's knowledge at the signing of this document. Upon receiving this statement from the Seller, the Seller's Agent is required to provide a copy to the Buyer or the Agent of the Buyer. The Seller authorizes its Agent(s) to provide a copy of this statement to any prospective Buyer in connection with any actual or anticipated sale of property. The following are representations made solely by the Seller and are not the representations of the Seller's Agent(s), if any. **This information is a disclosure only and is not intended to be a part of any contract between Buyer and Seller.**

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Attach additional pages with your signature if additional space is required. (4) Complete this form yourself. (5) If some items do not apply to your property, check NOT AVAILABLE. If you do not know the facts, check UNKNOWN. FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE A PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT.

Appliances/Systems/Services: The items below are in working order. (The items listed below are included in the sale of the property only if the purchase agreement so provides.)

	Yes	No	Unknown	Not Available		Yes	No	Unknown	Not Available
Range/Oven					Lawn sprinkler system				
Dishwasher					Water heater				
Refrigerator					Plumbing system				
TV antenna, TV rotor & controls					Water softener/conditioner				
Hood/fan					Well & pump				
Disposal					Sump pump				
Garage door opener & remote control					Septic tank & drain field				
Electrical system					City water system				
Alarm system					City sewer system				
Intercom					Central air conditioning				
Central vacuum					Central heating system				
Attic fan					Wall Furnace				
Microwave					Humidifier				
Trash compactor					Electronic air filter				
Ceiling fan					Solar heating system				
Sauna/hot tub					Fireplace & chimney				
Pool heater, wall liner & equipment					Wood burning system				
Washer					Dryer				

Explanations (attach additional sheets, if necessary):

UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF CLOSING.

Property conditions, improvements & additional information:

- Basement/Crawl Space:** Has there been evidence of water? yes _____ no _____
If yes, please explain: _____
- Insulation:** Describe, if known: _____
Urea Formaldehyde foam insulation (UFFI) is installed? unknown _____ yes _____ no _____
- Roof:** Leaks? _____
Approximate age, if known: _____
yes _____ no _____
- Well:** Type of well (depth/diameter, age and repair history, if known): _____
Has the water been tested? _____
yes _____ no _____
If yes, date of last report/results: _____
- Septic tanks / drain fields:** Condition, if known: _____
- Heating system:** Type/approximate age: _____
- Plumbing system:** Type: copper _____ galvanized _____ other _____
Any known problems? _____
- Electrical system:** Any known problems? _____
- History of infestation:** if any: (termites, carpenter ants, etc.) _____
- Environmental problems:** Are you aware of any substances, materials or products that may be an environmental hazard such as, but not limited to, asbestos, radon gas, formaldehyde, lead-based paint, fuel or chemical storage tanks and contaminated soil on the property. unknown _____ yes _____ no _____
If yes, please explain: _____
- Flood Insurance:** Do you have flood insurance on the property? unknown _____ yes _____ no _____
- Mineral Rights:** Do you own the mineral rights? unknown _____ yes _____ no _____

Seller's Disclosure Statement

Property Address: _____ Street _____ City, Village, Township _____ Michigan

Other Items: Are you aware of any of the following:

- | | | | |
|--|---------------|-----------|----------|
| 1. Features of the property shared in common with adjoining landowners such as walls, fences, roads, driveways or other features whose use or responsibility for maintenance may have an effect on the property? | unknown _____ | yes _____ | no _____ |
| 2. Any encroachments, easements, zoning violations or nonconforming uses? | unknown _____ | yes _____ | no _____ |
| 3. Any "common areas" (facilities like pools, tennis courts, walkways or other areas co-owned with others) or a homeowners association that has any authority over the property? | unknown _____ | yes _____ | no _____ |
| 4. Structural modifications, alterations or repairs made without necessary permits or licensed contractors? | unknown _____ | yes _____ | no _____ |
| 5. Settling, flooding, drainage, structural or grading problems? | unknown _____ | yes _____ | no _____ |
| 6. Major damage to the property from fire, wind, floods or landslides? | unknown _____ | yes _____ | no _____ |
| 7. Any underground storage tanks? | unknown _____ | yes _____ | no _____ |
| 8. Farm or farm operation in the vicinity; or proximity to a landfill, airport, shooting range, etc.? | unknown _____ | yes _____ | no _____ |
| 9. Any outstanding utility assessments or fees, including any natural gas main extension surcharge? | unknown _____ | yes _____ | no _____ |
| 10. Any outstanding municipal assessments or fees? | unknown _____ | yes _____ | no _____ |
| 11. Any pending litigation that could affect the property or the Seller's right to convey the property? | unknown _____ | yes _____ | no _____ |

If the answer to any of these questions is yes, please explain. Attach additional sheets, if necessary:

The Seller has lived in the residence on the property from _____ (date) to _____ (date).

The Seller has owned the property since _____ (date).

The Seller has indicated above the condition of all items based on information known to the Seller. If any changes occur in the structural/mechanical/appliance systems of this property from the date of this form to the date of closing, Seller will immediately disclose the changes to Buyer. In no event shall the parties hold the Broker liable for any representations not directly made by the Broker or Broker's Agent.

Seller certifies that the information in this statement is true and correct to the best of the Seller's knowledge as of the date of Seller's signature.

BUYER SHOULD OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY. THESE INSPECTIONS SHOULD TAKE INDOOR AIR AND WATER QUALITY INTO ACCOUNT, AS WELL AS ANY EVIDENCE OF UNUSUALLY HIGH LEVELS OF POTENTIAL ALLERGENS, INCLUDING, BUT NOT LIMITED TO, HOUSEHOLD MOLD, MILDEW, AND BACTERIA.

BUYERS ARE ADVISED THAT CERTAIN INFORMATION COMPILED PURSUANT TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, IS AVAILABLE TO THE PUBLIC. BUYERS SEEKING SUCH INFORMATION SHOULD CONTACT THE APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY OR SHERIFF'S DEPARTMENT DIRECTLY.

BUYER IS ALSO ADVISED THAT THE STATE EQUALIZED VALUE OF THE PROPERTY, HOMESTEAD EXEMPTION INFORMATION AND OTHER REAL PROPERTY TAX INFORMATION IS AVAILABLE FROM THE APPROPRIATE LOCAL ASSESSOR'S OFFICE. BUYER SHOULD NOT ASSUME THAT BUYER'S FUTURE TAX BILLS ON THE PROPERTY WILL BE THE SAME AS THE SELLER'S PRESENT TAX BILLS. UNDER MICHIGAN LAW, REAL PROPERTY TAX OBLIGATIONS CAN CHANGE SIGNIFICANTLY WHEN PROPERTY IS TRANSFERRED.

Seller _____ Date _____

Seller _____ Date _____

Buyer has read and acknowledges receipt of this statement.

Buyer _____ Date _____ Time _____

Buyer _____ Date _____ Time _____

Disclaimer: This form is provided as a service of the REALTOR® Associations that comprise the West Michigan Regional Forms Committee. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. The REALTOR® Associations that comprise the West Michigan Regional Forms Committee are not responsible for use or misuse of the form for misrepresentation or for warranties made in connection with the form.