

## Buyers Should Ask, Ask, and Ask

By Judith Johansen

If homebuyers had no questions to ask and sellers of real property had no obligation to provide any answers, then buying a house could be as quick and easy as picking one up at a drive-through. It would sound like this: Uh, can I please have a three bedroom, three and a half bath colonial with a den, a three-car garage on an acre of land? I also want a fabulous kitchen. And can I have it in blue? Okay, how much is that?

The reality is that while a homebuyer thinks he knows what he wants, the right house is not always easy to find. Once found, though, it's important to learn about the property's good and not so good qualities.

So, here's a hot tip for homebuyers - ask questions (lots of them) about the properties on which you'd consider making offers. Some questions are inspired by what you can see, but others should be asked about what you can't see.

For instance, a good question to ask, the answer to which impacts an owner's privacy and right to use a property exclusively, is if anyone else has the lawful right to enter upon and/or walk through the property. Just imagine a parade of people you don't know streaming across your yard at any time.

A legal right of entry or crossing over someone's property is often seen in properties surrounding ponds, lakes and oceans and is typically stated in a property's deed as an easement or sometimes in a simple agreement with neighbors. Easements are also commonly granted to utility companies to enter onto property to maintain cables, wires and equipment and are routinely noted in deeds.

A smart question from a buyer of waterfront or resort community property would be whether or not the property can be lived in year round. The buyer who purchases and moves into a property with the intent of living there all year will be surprised (and not in a good way) to learn that his property is restricted to seasonal use only.

A buyer looking at a subdivision or community where houses are similar in style, color and feel should ask if these properties are subject to covenants and restrictions, and, if so, what they are. Understanding that homes in this neighborhood must have natural wood or stone exteriors, be of a neutral color palette, cannot have backyard clotheslines or boats in driveways may be material to a buyer's decision to buy.

Many developers create covenants and restrictions to preserve the look and integrity of the community, but a powerful benefit to the homeowners is that they can enforce them against other homeowners. Typically, covenants and restrictions can be found in deeds.

Buyers' most often asked questions concern sellers' disclosures about their properties' physical condition. Sellers are required, under Connecticut statute, to complete the Residential Property Condition Disclosure report, revealing that seller's own information about the property.

However, certain sellers (executors, administrators, conservators and trustees, to name a few) are exempt from having to complete the form, leaving a buyer with no owner's history of the property's condition. Buyers from such sellers must rely on their own eyes and questions posed to licensed inspectors and their reports.

Lastly, when buyers or sellers see the phrase "time is of the essence" in their Purchase and Sale Agreement, they should ask and verify what it means and how it applies to them. This phrase is thought by some to be particularly onerous because it means that every provision or deadline to which it applies (i.e., mortgage commitment and inspection dates) must be strictly adhered to; missing a deadline can be a default, triggering a penalty against the one who missed the deadline.

Until houses become standardized like Henry Ford's first cars and are so perfect and fungible that a buyer could simply order one online, homebuyers will need to ask questions – lots of them.

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