

## IMPORTANT NOTICE: NEW SELLER DISCLOSURE REQUIREMENTS

22 July 2004

The Minnesota Association of REALTORS® (MNAR) successfully pursued legislation modifying the Seller Disclosure law (M.S. 513.52-513.60).

As of January 1, 2003 all sellers of single-family residential property (property occupied as, or intended to be occupied as, a single-family residence, including a unit in a common interest community, regardless of whether the unit is in a common interest community not subject to chapter 515B) were required to disclose to prospective buyers material facts pertaining to **adverse physical conditions** in the property of which they are aware that could significantly or adversely affect an ordinary buyer's use or enjoyment of the property or any intended use of the property of which they are aware.

MNAR successfully lobbied to modify this statute, and ***effective August 1, 2004*** sellers of existing single-family residential property will be required to disclose **ALL MATERIAL FACTS** of which they are aware that could significantly or adversely affect an ordinary buyer's use or enjoyment of the property or any intended use of the property of which they are aware.

The difference between the initial law and the new change includes material facts that a prospective buyer would want to know that are not directly associated with the physical condition of the property. (e.g., an expansion of a road that is adjacent to the property or the expansion of an airport runway that would allow air traffic to flow over the property.)

**This legislative change needs your immediate attention.** If you have current listings, you may need to inform the Seller you are representing or assisting that they may need to modify their Seller's Property Disclosure Statement to meet the new statutory disclosure requirements.

If you have entered into a Listing Contract or a Facilitator Services Agreement and the property has not sold as of August 1, 2004, then you need to make sure that the Seller's disclosure adequately meets the new disclosure requirements. The Seller can either complete a revised Seller's Property Disclosure Statement or modify the Seller's Property Disclosure statement they have already completed.

In the event a buyer and seller have agreed in writing to waive the statutory seller disclosure requirements, no "material fact" disclosure would be required by the seller.

If you have entered into a Listing Contract or a Facilitator Services Agreement and the property has been sold prior to August 1, 2004 and the closing is pending then no updated Disclosure would be necessary, unless the Seller became aware of a material fact between the time of Disclosure and closing of the property.



It is also very important for you to know that there still remains a difference in the material fact disclosure requirements for real estate licensees and sellers.

Real estate licensees are required to make material fact disclosures for residential property occupied by, or intended to be occupied by, one to four families as their residence. Therefore, if you have entered into a Listing Contract or a Facilitator Services Agreement for a multi-unit residential property occupied by, or intended to be occupied by, one to four families as their residence and you are aware of material facts requiring disclosure, then you need to work in conjunction with your Seller to make the necessary disclosure to meet your statutory disclosure requirements.

Questions or concerns regarding this article can be directed to Susan Dioury at [sdioury@mnrealtor.com](mailto:sdioury@mnrealtor.com) or if you have specific legal questions, please have the broker of your office contact the MNAR Legal Hotline.

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