



Promoting expertise in real estate

Legal Hotline Q & A

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QUESTION - What do you suggest we do when representing a buyer in this case? We wisely mark Form 21, Line 13, indicating that the seller will pay charges & assessments at or before closing but the seller counters by striking that choice and stating that buyer will assume. BUT, time is of the essence for buyer to get this house before someone else does so we ask the listing agent, who says "seller doesn't know of any assessments due after closing". As you know, sewer cap fees, HOA assessments and others charges are not recorded on title anyway. Not all listing agents disclose what is known about these items. I know I can warn the buyer that there could be undisclosed fees they'd be responsible for – but **WHAT ELSE CAN BE DONE, so as we represent the buyer's best interest, we have all the info we need? (When often, time is not on our side!)**

ANSWER: All that broker can do is advise buyer of the risks associated with the situation and provide some potential tools for buyer to employ to gain additional information. But, broker cannot "fix" this problem. Broker should advise buyer, orally and with a reminder in writing, that there can be hidden charges and assessments associated with property ownership that are not disclosed on a title report or on the Seller Disclosure Statement. If buyer chooses to proceed with the sale in light of the risks associated with seller refusing to pay "charges and assessments" at or before closing, then buyer accepts those risks.

Broker should also advise buyer to seek legal counsel and advise buyer to contact the most likely sources of undisclosed "charges and assessments". Buyer may want to contact any HOA that has authority over the property, the local building department (particularly if the home is new or the property is unimproved), all utility providers and any other source that, in broker's experience, will generate "charges and assessments." Ultimately, this is a risk to buyers in a fast-paced seller's market. All that brokers can do is protect buyers, through disclosure and protect themselves, by retaining written proof of the disclosure.

The Legal Hotline Lawyer does not represent Washington REALTORS or its members. To browse through our database of past Q & A's, visit www.warealtor.org. Attorney Annie Fitzsimmons writes the Legal Hotline Question and Answer of the Week. Please submit questions to legalhotline@warealtor.org or call (800) 562-6027. Please have your NRDS number ready when you call or e-mail the Hotline with your question.