Buyer Beware Questions by Susan Mogren

Most buyers are unaware that in Massachusetts, with a few exceptions, **the rule of Buyer Beware is still alive and well.** That is why the vast majority of transactions, buyers choose to have the property inspected by a licensed home inspector. And it is also why there is a contingency in the offer, giving the buyer the right to opt out of the agreement if they are not satisfied, or if there are defects or serious issues cannot be overcome.

Caveat Emptor is an old common law rule which means “Buyer Beware”. In plain English, it means that home buyers are on their own when it comes to the condition of a property. If there is a defect of any kind, it becomes the buyer’s problem, not the sellers.

Legally in Massachusetts, a private seller has no obligation to disclose anything to you about the home or nearby conditions. A seller can only get in trouble if he is asked a direct question and flat out lies about it.

When it is a buyers market, and there were more homes than inventory, these questions are commonly asked PRIOR to an offer. In a seller’s market, where there are more buyers than sellers, these question are commonly RESERVED for the 10 day home inspection period, honestly, because sellers would rather have an easy uncomplicated transactions, and their sellers agent will point them toward “easy peasy” buyers, without lots of questions.

Buyers need to ask lots of questions, to get direct answers, and this list will guide you. Choose what is most important to you.

Can you provide a seller’s disclosure?

Please list improvements and approximate time period made during your tenure.

Has your land been surveyed, can you provide a plot plan?

Are there any easements or right of ways?

Is your driveway on your property?

Is everything else on your property?

Who owns and maintains the fence and stonewalls?

Is your street public or private?

Do you know of, or have you ever buried anything in your back yard?

Can you provide a list of utilities and evidence of the monthly payments for the past year?

Does your town have any dedicated utility services that you participate in?

How do you handle trash/ recycling/lawn and snow. Please list resources with contact info.

Did you or your contractor take necessary town permits?

Are there any building permits open? or pending violations?

Do you know when the septic was installed? Prior to title v, Did you have a regular septic pump schedule? Which septic provider did you use?

If you have sewer, are there any betterment fees outstanding? Will you be paying them off?

How old is the furnace? Do you service it annually?

How old is the hot water heater?

How old is the roof?

Which trees are yours?

Is there cell phone coverage throughout your house or is it spotty?

Have you ever had water in the basement?  Or a flood?

Is your house in a flood plain, and do you carry flood insurance?

Is your lot, street, area, or any nearby location in a flood plain?

At any time have you had past or present moisture, standing water, visible stains, or water intrusion on the property?

Does the seller represent that they have no knowledge of mold or mold mitigation performed at the property, professional or otherwise?

Has seller disclosed any and all water intrusion or interior moisture build up and all conditions that could contribute to mold growth?

Are there any known structural or foundation issues?

Have you ever had ice dams?

Have you ever had a roof leak?

Do your gutters function properly?

Is the pool in working order? Does the pool pump work or does the pool leak?

Is there any regular, irregular, or yearly maintenance contracts you have to maintain your house? ie pest or other?

Do you run a sump pump, dehumidifier or other, to regulate conditions?

Is there a gas line on the street or proposed?

Does your town have town sewer or proposed?

With town water, have you ever had off- colored water?

With a well, have you ever had poor quality or poor water flow? What was the remedy?

Is the slider to the deck functioning?

Do the wall air conditioners work? Will you leave window air conditioners behind?

Is there any facility in town or nearby, that would cause odor at any time of year by your property?

Is there any excessive noise or unusual traffic considerations I need to be aware of?

Are there any marijuana dispensaries/retail stores in your town? Or neighborhood? Are there any approved marijuana manufacturing facilities in the neighborhood? Are you aware of any applications submitted to the town/city for your neighborhood for retail licenses?

Are you aware of a registered sex offender in the neighbor or immediate area?

And my favorite …have you ever had any paranormal activity in the house?

 A listing agent’s duty is to the seller and getting the home sold. They do their best not to divulge too much info, but must disclose known defects of the property. A buyer’s agent would be much more likely to advise you of problematic conditions, and how it might affect you.

If you are concerned with lead paint, and it is important to you, TEST before you agree to buy!

MA law says every child has the right to a lead free environment even a parent cannot take that right away. If you are concerned with lead paint, check the database here, and then **re-test** to insure current standards. <http://webapps.ehs.state.ma.us/Leadsafehomes/default.aspx>

Here is the **short version** of questions to a seller.

List of improvements made during their tenure

Plot plan

Utilities/ trash/ recycling/lawn and snow

Check town hall for building file for open permits and closed permits/violations

Septic installed? Last time cleaned?

Easements or right of ways

Is the driveway fully on the property?

Which trees are yours/theirs?

Who owns the fence stonewalls?

Cell phone coverage in the house?

Do you have a Home warranty?

Would you be willing to cover me for a one year Home warranty on systems and appliances?