

WHY ARE THEY MOVING?

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“Why are they moving”? Simple question – maybe even innocently asked – just making conversation? Many, if not most, buyers will slip this question in at some point in viewing or considering a home for purchase. It’s a free country (kind of, so far) – buyers can ask anything they want to. However, it’s a different matter when the buyers’ agent asks the same question (which happens all too frequently.) Buyers’ agents are supposed to know that is inappropriate and that they are effectively asking the sellers’ agent to breach their fiduciary duty of confidentiality.

As a seller’s agent, there is a very strong fiduciary responsibility to not divulge any confidential information about the seller – until death (the agent’s death – not the seller’s.) Motive is definitely confidential and must not be disclosed or hinted at – unless the seller has stated in writing that they want that information revealed. There are times when the seller may want to voluntarily disclose their reason for moving – to try to spark a quick sale and express a willingness to negotiate price and/or terms.

Keep in mind however, any and all known material facts about the property and any latent defects must be disclosed by the seller and their agent. According to the Maryland Association of REALTORS®, *"A latent defect is a condition that one, is not reasonably discoverable on careful visual inspection and two, would pose a direct threat to the health or safety of the purchaser or occupant."*

While there may be a particular reason for the desire to sell and move somewhere else, there may not be. Some people just like to move on and experience new places and people. But, there are lots of possible reasons for people wanting to move that are really none of the prospective buyers’ business.

Here are just a few possibilities (in no particular order or ranking):

- Better opportunity somewhere else
- Tax consequences related to upcoming retirement
- Loss or change of employment, new job already lined up
- Better climate, better economy, better view, better something
- Closer to children / grandchildren (or maybe further away)
- Access to desirable locale, i.e., mountains, beach, country, suburbs, city, school district
- Already selected / contracted for / purchased another home
- Avoidance of looming need for short sale / foreclosure
- Can't deal with stairs / steps any longer
- Downsizing, upsizing, rightsizing
- Divorce / separation
- Planning to die soon – don't want heirs fighting over property
- Looming maintenance costs: roof, siding, landscaping, remodeling, appliances, windows and doors, new septic system, new well, etc.
- Undesirable neighbors
- Problems with HOA / Condo Association
- Medical condition, new allergies, etc.

How about this one: “The roof is leaking and I can't afford to fix it”. OK, that's a little different. “The roof is leaking...” is a material fact that must be disclosed. The rest of the statement: “...and I can't afford to fix it”, is confidential information and does not have to be disclosed.

So, why is the original question being asked anyway? Presumably because the buyer would like to know what the sellers' motivation is – how desperate are they? And then what will be done if that information is discovered? Will the purchase offer be higher because they feel sorry for the sellers' misfortune? Or is the buyer looking for a weakness in the sellers' resolve so they can take advantage of whatever level of desperation there may be for a quick sale at a lower price?

Am I the one rushing to judgement here? Perhaps - perhaps not.

Neither the seller nor the sellers' agent has to respond to such questions. The simplest answer to offer is, "That isn't material to the property or the sale". Maybe followed by asking the buyer, "Why are you moving?"

The sellers' motivation to sell does not have anything to do with the fair market value of the property. Might the sellers' motivation to sell (or the buyers' motivation to purchase) affect the negotiated sale price? Absolutely – but it doesn't have to have any affect at all.

What's the value, positive or negative, of `undesirable neighbors' anyway? Those same people could become the new property owners' best friends for life.

DISCLAIMER

John P. Hale is a licensed real estate agent in Maryland and Pennsylvania. He is affiliated with Coldwell Banker Residential Brokerage in Westminster, Maryland. John has been licensed since 2000 and also practiced in Tucson, Arizona for many years. Mr. Hale holds the following designations and certifications awarded by the National Association of REALTORS® (NAR) and other authorized institutions: ABR-Accredited Buyers Representative, AHWD-At Home With Diversity, CNE-Certified Negotiation Expert, CRMS-Certified Risk Management Specialist, CRS-Certified Residential Specialist, CTA-Certified Tourism Ambassador, e-PRO-Online Real Estate Practice, GRI-Graduate of Realtor Institute, MRE-Master of Real Estate, MREP-Mortgage Real Estate Professional, and MRP-Military Relocation Professional.

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