



LETTERS TO THE
EDITOR

Real Estate Articles from Inman News

Avoid lawsuits with home inspection

Guest perspective: Buyers, sellers, Realtors find grace in often-skipped step

Monday, June 27, 2005

Private property protection goes out the window

Re: '[Cities can seize homes. Supreme Court rules](#)' (June 23)

[By Kathleen Austin Kuhn](#)

Dear Editor:

The broad reading of the rights of eminent domain to seize private property for distribution to other private parties is a sad outcome of the Supreme Court decision identified on your Web site.

The common good identified speculates that a simple redistribution will provide greater value to the tax base than current use if that use is residential and not a blight upon surrounding property bringing other properties down.

That theory could apply to any residential neighborhood, however, to any island, or to any real estate held for industrial, warehouse or residential property anywhere since the income attributable to stores and offices is always higher than any other form of property class. Such an assumption is dangerously close to communistic thinking that imposes the sovereignty of government



Kathleen Austin Kuhn

"Location, location, condition," as we always say in the home inspection business. As the real estate market continues to set new records, buyers need to take off their rose-colored glasses and invest wisely. And as any Realtor knows, a home in a great location will be a good long-term investment, even if housing prices dip. But the key to a good investment is to make sure a home is not fraught with costly defects.

I believe that the housing bubble is less likely to burst than it is to just simply float along. Home prices won't tumble, but they can't continue to appreciate at the current pace – which makes it more important than ever for buyers to protect their investments. The National Association of Realtors says that 98 percent of Realtors strongly recommend a professional home inspection, but in the current hot seller's market, we are seeing an alarming number of buyers dropping the home inspection contingency in an attempt to make their offer the most appealing.

But home buyers often get burned when they let emotion or pressure cloud their decision and decide to forego an inspection. Think about it this way: A home seller who is inclined to accept an offer without the buyer's home inspection contingency (over other offers that have it) may be doing so because he/she suspects the property has some defects that could be uncovered otherwise. If a buyer moves into a new home and uncovers serious problems, he/she may expect financial restitution. In such lawsuits, agents and sellers may find it difficult to prove that they were unaware that the conditions discovered existed.

But skipping an inspection can not only be disastrous for a home buyer; A Realtor also can be putting himself or herself and the home seller at risk for a lawsuit after the sale has closed. According to the NAR, most lawsuits against Realtors are initiated by buyers over non-disclosure of hidden defects. And skipping an inspection in a hot market can be especially detrimental, particularly if the house is overpriced. Paying top dollar for a home that requires expensive repairs can be a financial double whammy for an unsuspecting buyer.

Surprisingly, this trend is not limited to the truly overheated markets like San Francisco or Manhattan. We have HouseMaster franchisees in markets from Winnipeg, Canada, to Virginia Beach, Va., reporting an increase in home sales without inspections. Just last week, one of our inspectors was thrown off a

as judge of what is considered an "accepted use," a prerogative generally restricted to local zoning commissions that determine the class and locations of property.

The real estate bar for justice must be up in arms.

As the test case of overturning historic laws that preserve private property, it might be important to understand how tenuous any neighborhood is within that decision. Perhaps the justices would like their neighborhoods taken for commercial development? Not likely, but possible within the outcome reported on your Web site.

Patricia Ross
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Dear Editor:

Webster's Dictionary 1964 defines "eminent domain" using the words "necessary" public use. Webster's Dictionary 1997 defines "eminent domain" the same, except it does not say "necessary."

This decision takes (steals) fine, privately owned land and gives it for an "unnecessary," "private" use. This is an outrage!

David G. De Vries
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property by a seller who said the contract didn't call for a home inspection so they wouldn't allow it. John Burke, from the HouseMaster office in Virginia Beach reported that the buyers (wisely) wanted the home inspection to learn more about a home they were buying and to help budget for possible repairs. They knew they were buying the home "as is," but they still wanted to know exactly what they were getting. Fortunately, the Realtors stepped in and worked it out and the home inspection was completed.

When HouseMaster began offering home inspection services in the late '70s, the home inspection was seen primarily as an educational tool. HouseMaster inspectors are trained to report on the condition of all the major elements of the home both good and bad, as well as to demonstrate how to operate many of the system in the home and provide maintenance advice for the soon-to-be homeowner. Only in the last decade has the perception of the home inspection gone from a learning tool to a negotiating tool for the home's price. So buyers who feel they can't negotiate may see the inspection as unnecessary.

Sellers can be proactive too and get a home inspection themselves. By hiring a reputable home inspector (with no stake in the sale of the home) to document the condition in writing, before the bids even start, the seller is protecting themselves from significant renegotiations after a contract has been drawn up. And buyers can review the inspection report and make their offer without an inspection contingency, but with the peace of mind that they know what they are buying. In this case, sellers and agents win too because having a professional, third-party home inspection performed can reduce their risk of non-disclosure issues and/or lawsuits down the road.

What's the solution? Neither a buyer nor seller should ever forgo a home inspection. That's the bottom line. There is just too much at stake. Buying a home is one of the most expensive and important purchases in a person's lifetime. Even if a buyer is purchasing a home "as is," it's crucial that they go into this major transaction with both eyes open. Everyone should know what the problems are and what it will cost to fix them down the road.

Kathleen Austin Kuhn is the president and CEO of [HouseMaster Home Inspections](#), which has nearly 400 franchisees throughout North America. She also is a founding member of the American Home Inspection Association, a non-profit organization made up of national home inspection groups focusing on legislative issues in the home inspection industry.

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