



Real Estate Talk: Latent Defects

Description

What is unseen can become a costly issue

By **Joseph Marovitch**

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Clients often tell me that they are not worried about latent defects because they had an inspection by a certified inspector. They are confused. A latent defect is a hidden defect in the home that a certified inspector did not see nor search for. General home inspectors are mandated to inspect a property and report only what they see.

Home inspectors are not responsible for what they cannot see. The inspector will search for cracks around and in the house. They will search for stains that indicate water infiltration and markings for possible mould. The inspector will turn on the faucets to examine water pressure. They will look for loose railings, rotted mouldings and roofs. They will examine plugs to ensure they are grounded and do not cause harmful shocks. If the inspector has a thermal imaging device, they will check for heat loss, live wires and lack of insulation.

General home inspectors are mandated to inspect a property and report only what they see.

Inspectors will not look for cracks in the lining of the fireplace nor the foundation. They will not check the wiring in the walls nor the plumbing under the floor. They will not open the walls to see if there is vermiculite or asbestos waiting.

The inspector is only responsible for what they can see. They may find clues to hidden defects but then the inspector will tell the buyer to get a foundation, roof, pool or mould specialist to examine the issue further.

Hidden defects are issues that would not normally be visible, reduce the value of the home, and are not known by the seller.

The issue is that a home that is sold with warranty means that the seller is responsible for that hidden defect even



after the property has been sold. Not only is that seller responsible, even if they do not live in that house, but the owner before them is responsible as well, and so are all the owners before that who are living. If there was an owner who sold the property without warranty, they are not responsible.

So, if you purchase a home with a fireplace and move in, then one day make a fire in the fireplace only to discover that your house is filling with smoke on the second floor due to a tear in the lining of the fireplace, you can hold the previous owner responsible.

'The issue is that a home that is sold with warranty means that the seller is responsible for that hidden defect even after the home has been sold.'

In terms of remedy, the buyer can have the seller refund part of the sale price, pay for reparation or, in some cases, the buyer can cancel the purchase and ask for their money back. In theory, these remedies are all possible. In practice, it is never that easy. If the buyer contacts the seller years after the purchase, the seller may refuse the buyer's demands. In this situation, the buyer would have to sue the seller and wait for the judge to decide. This process takes time, energy and money. However, if the issue is serious, expensive to repair and not the fault of the buyer, then we do what must be done. When you sell a house, it must be usable.

Sellers can choose to sell without warranty, but this usually causes the sale price to be discounted in lieu of the buyer taking a risk that the house is in good working order. Homes are sold without warranty when they are inherited. The seller never lived in the house, so they do not know if there are issues.

Another reason to sell without warranty is that the house is very old, the seller does not maintain it and believes there may be hidden defects. These sellers are prepared to sell without warranty for a lower price for the peace of mind that the buyer will never come back at them. Selling without warranty can also take longer to sell.

Should you have questions or comments, please refer to the comments section at the bottom of the page. As well, to view past articles, [click here](#).

Next article: **Multi-residential income property /1**

State of The Market

Once again, I end up in a multiple offer bidding war for a condo in downtown Montreal. Professional real estate brokers work in real estate every day, studying the market, checking new and sold listings, maintaining knowledge and awareness of issues that affect the real estate market such as economy, politics, environment, etc. For a professional real estate broker, real estate is not a part-time job.

Brokers try not to make assumptions about anything such as the listing has been in the market a long time, the seller probably has no better offers, based on other sold property, this property should sell for just so much, etc.

'Competition in the Montreal real estate market is fierce and making assumptions rather than playing your best straight hand will likely lose the buyer the property they are trying to purchase.'



Brokers work with the facts they have on hand which can be proven. One cannot know the mind of a seller. Buying and selling are being aware of the facts and knowing when to raise, when to hold and when to fold. If the buyer knows their budget and can stick to it, they may win or break even in negotiation.

In a multiple offer situation, the buyer must put their best foot forward, no more and no less. Competition in the Montreal real estate market is fierce and making assumptions rather than playing your best straight hand will likely lose the buyer the property they are trying to purchase. This is a seller's market where there are many buyers and few properties for sale.

For any questions, please feel free to write in the comment section that follows. I would be pleased to answer.

Have a great week and stay safe!

Let's not forget that people with cancer are vulnerable too!

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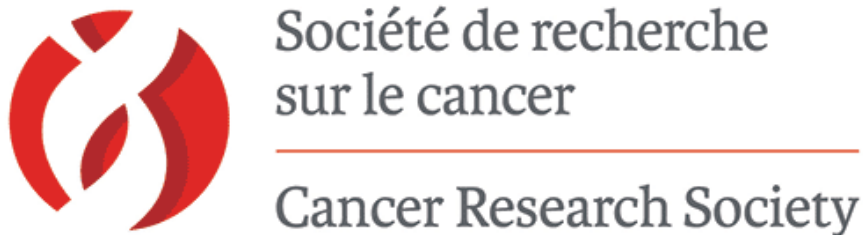


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Joseph Marovitch has worked in the service industry for over 30 years. His first career was working with families from Westmount and surrounding areas, hosting children between the ages of 6 to 16 as the owner and director of Camp Maromac, a sports and arts sleep away summer camp established in 1968. Using the same strengths caring for the families, such as reliability, integrity, honesty and a deep sense of protecting the interests of those he is responsible for, Joseph applies this to his present real estate broker career. Should you have questions please feel free to contact Joseph Marovitch at 514 825-8771, or josephmarovitch@gmail.com



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Tags

1. home inspectors
2. inspection
3. Joseph Marovitch
4. latent defects
5. state of the market

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