**Prior To Purchase**

Before signing an agreement to purchase a home or making an offer, you should check out the following items that may affect your decision. If you are worried you might lose the home, you can **create a contingency** that you need “X” days to check the following and if not pleased with the results you can back out of the contract and be refunded your deposit.

* Neighborhood Covenants
* Zoning Restrictions
* City/County Regulations That May Affect Your Home
* Adjacent Parcel Peculiarities
* Historic District Ordinances
* Resource Protection Area
* Registered Sexual Offenders
* Dam Break Inundation Zone
* Previous Mining Operations
* Abandoned Mines, Shafts, Wells or Pits
* Military Air Installations
* Approved Septic Systems (if appropriate)
* Natural hazard risks such as earthquake, fire of flood zones, etc.

**Questions To Ask The Seller**

**(not the seller’s agent)**

​Although there are some basic disclosures required of sellers under federal law, Virginia law does not require sellers to disclose much information about their property at all. The state of Virginia generally still goes by the old English common-law concept of “caveat emptor” (“let the buyer beware”). That basically means that while sellers **can’t lie outright** or **actively conceal** a problem — **and must honestly answer prospective buyers questions when asked** — they aren’t obligated to point out the home’s flaws or defects to buyers.

The  Virginia Residential Property Disclosure Act (found in [Title 55, Chapter 27](http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+TOC55000000027000000000000)  of the Code of Virginia) governs the information sellers must disclose to prospective buyers. As a seller in Virginia, your basic “disclosure” requirement is to provide the buyer with a signed “Residential Property Disclosure Statement”. (This form can be found at the Virginia government’s website for the  [Department of Professional and Occupational Regulation](http://www.dpor.virginia.gov/).)

 When you look the form over, however, you will see that it is less of a “disclosure” statement than one saying the seller is not disclosing much of anything! Basically, the form provides notice to buyers that it is up to them to inspect and investigate the property on their own.

The disclosure statement (Code of Virginia §55-519) gives notice to the buyer that the seller:

* makes no representations or warranties about the condition of the property or its attachments
* makes no representations regarding adjacent parcels
* makes no representations about whether historic district ordinances affect the property
* makes no representations regarding whether property is protected under the Chesapeake Bay Preservation Act
* makes no representations about nearby registered sexual offenders
* represents that there are no undisclosed pending actions under the Uniform Statewide Building Code, or zoning violations that have not been fixed
* makes no representations about whether the property is in a dam break inundation zone
* makes no representations regarding whether any storm water detention facilities are on the property, and
* makes no representations about the presence of any wastewater system on the property.

The seller, must provide the signed disclosure form to the buyer before the purchase and sale contract takes effect. If a seller fails to do this, the buyer may void the contract, possibly even after the completion of the sale. (Code of Virginia § 55-520 (B).)

The seller can expect that any savvy buyer will read this form, realize you have revealed basically nothing about the property, and then **require, as a contractual condition to closing the deal, the opportunity to further investigate and inspect the property**. The seller will likely need to allow these inspections, and negotiate the details about them, and any significant need for follow-up repairs, with the buyer.

Exceptions to Who Must Fill Out the Disclosure Form

There are some exceptions where the disclosure statement is not required. No disclosure form is necessary in sales between co-owners or between relatives, or in certain tax, bankruptcy, trust, and foreclosure sales. (Code of Virginia § 55-518 (A).)

Also, a builder selling a new home for the first time is not required to complete the disclosure form. The **builder-seller *does***, however, need to **provide the buyer with written disclosure of any known defects that are in violation of the building code.**

Other Disclosures Virginia Home Sellers Must Make

There are a few, limited situations where, in addition to the disclosure statement, a seller must provide the buyer with other disclosures. For example, in certain locations, the **seller must give notice** of any known mining operations, or **mines, shafts, or pits** affecting the property. (Code of Virginia § 55-518 (B).)

Also, a specific **disclosure is required if the property has a septic system needing repair or maintenance and the seller has a waiver from the State Board of Health allowing the seller to keep using the septic. The seller must inform the buyer that the waiver will not apply to the buyer**, and that upon the sale of the property the septic system will need to be repaired before it can be used. (Code of Virginia §32.1-164.1:1.)

Additionally, if the home is **near a military air base, the seller must inform** the buyer whether it is in a **noise zone or accident potential zone** (Code of Virginia §55-519.1).

**Also**, if you know that the house contains **defective drywall**, you must disclose this in writing to the buyer. (Code of Virginia §55-519.2.) Virginia has created standard  [disclosure forms](http://www.dpor.virginia.gov/Consumers/Disclosure_Forms/)  for the septic, military air base and drywall issues.

Prohibitions Placed Upon on Virginia Home Sellers

Even though the seller’s disclosure obligations are minimal, Virginia law does have some standards governing a seller’s behavior. For example, **a seller who knows about a problem may not say or do anything to distract the buyer from finding the problem.**

**Also,** a seller **may not cover up a known defect**. The seller **must also answer honestly any questions from a buyer about a potential problem with the property.** So, this would suggest that if a seller is trying to sell a home with a large hole in the wall, it would be a bad idea to super-glue a poster over the hole to hide it from a prospective buyer, or deny that the hole exists if the buyer specifically asks about it.

Federal Disclosure Requirements

Beyond the Virginia law requirements, sellers must also comply with the disclosure rules under federal law. The main ones relate to lead-based paint. If a seller is selling a home that was **built prior to 1978**, the seller must **disclose any known lead-based paint hazards** in the home. (The federal lead disclosure requirements are found at 42 U.S.C.A. § § 4851-56.).

The seller **must give an EPA-approved informational pamphlet to buyers**, along with any existing reports relating to lead in the home. Additionally, the **seller must give buyers an option to conduct a lead-based paint inspection** or assessment, and include specific warning language relating to lead-based paint hazards in the purchase and sale agreement.

Further Help

A home seller in Virginia is **not required** by law **to reveal** the activities of that **ghost** in the attic (**unless asked!).** However, there are often many complexities involved in home sales, and the seller will be best served by consulting a professional before selling his home. A seller can get further information about what is required when selling a home in Virginia from a local attorney or real estate professional.

In Summation

**Make sure you include a contingency clause allowing you to check the first items listed in this report as well as preparing a written list of questions to which the seller must respond (stipulate in writing) with resultant answers to your satisfaction.** Some of the questions that the seller can answer to the best of his knowledge are:

* Age of the roof covering
* Any roof leaks and their disposition…ever
* Age of each HVAC compressor, air handler/condenser and furnace
* Age of the water heater
* Any termite damage ever
* Any past crawl moisture problems…wood dry rot…ever
* Any mold problems...ever
* Any sewer or septic problems…ever
* Any attic structural damage…ever
* Any foundation problems…ever
* Any polybutylene plumbing
* Any Chinese drywall
* Make of the electric panel
* Any known or possible lead paint
* Any known or possible asbestos
* Any solid 15 or 20 amp aluminum wiring circuits
* Any neighbor problems
* Etc. (this list is not all encompassing)

Finally, make sure you have the property surveyed and a title search done.