

2. Failure to Disclose Water and Mold Damage

Background

The sellers had the home inspected for moisture problems. The inspection report was not provided to the buyers in connection with their purchase of the property and was not mentioned on either of the two disclosure statements completed by the sellers.

The report contained extensive references to actual and potential moisture damage, including moisture levels of 20% in multiple locations and recommended repairs. This information would have been material for potential buyers of the property.

Issues

State law required the sellers to disclose all material facts which could adversely and significantly affect the buyers' use or enjoyment of the premises, and to provide supplemental disclosures of all material facts if new information became available. The sellers, their agent, and the listing agent violated their duty of disclosure, and the buyers' agent violated a fiduciary duty, in failing to disclose property damage.

Outcome

Dr. Musil completed the Expert Report. The case settled in favor of the buyers.