



“AS IS”-What does this really mean?

Tiffany Banks, General Counsel

What does it mean when a property is being sold as is? Does that mean that the buyer takes the property as it is with any defects it may have? What does that mean for the seller? Does the seller say once the property is transferred, they are free of any risks and liabilities because I sold it this way? We are seeing more properties being sold this way and wanted to break down these issues so you as a REALTOR® can understand what this means for your client.

How does a court interpret an as is clause?

The courts often interpret an “as is” clause in a contract to imply that a property could be defective. This means that the seller wishes to sell the property in existing physical condition it is in and the buyer is agreeing to accept that condition when making an offer.

Is a seller still required to disclose known defects?

Yes. Just because a property is being sold as is, a seller must still make disclosures they normally would on defects with the property that they know about it. Every sale of a residence MUST include the Seller’s Real Property Disclosure form (SRPD) in accordance with NRS 113.130. There are very few exceptions, and the inclusion of an “as is” clause is NOT an exception. A seller may not insert an as is clause into a contract and assume that they are safe from claims for property defects. We always say, “disclose, disclose, disclose” and there is a perfect buyer for every property. A broker should warn sellers that selling “as is” is not a shield from claims of misrepresentation, fraud or nondisclosure.

Does a buyer still have a right to inspect the property?

Absolutely. Just because a property is being sold as is, doesn’t mean that a buyer can’t (or shouldn’t) inspect the property. If a buyer needs even more of a reason, this would be it. When representing a buyer in an as is transaction be sure that they take adequate time to do due diligence and necessary inspections, so they have an idea of the actual property condition. Unless the contract specifically says otherwise, the buyer is entitled to cancel the contract based on items discovered during the inspections.

So, what DOES “as is” mean?

The simplest way to explain this is that by selling the property as is, the seller is saying that they won’t **make any repairs.** It is that simple. They still have to disclose all known material facts and defects relating to the property.

Can a buyer still ask for repairs to be made that they discover during due diligence?

They can, however the seller is asserting that they want a buyer to take the property as it is and not have to make any repairs. We would recommend advising the buyer to seek appropriate counsel regarding the risks of buying a property in “as is” condition.

Statements made by the Nevada REALTORS® Legal Information Line attorneys on the telephone, in e-mails, or in legal e-news articles are for informational purposes only. Nevada REALTORS® staff attorneys provide general legal information, not legal representation or advice regarding your real estate related questions. No attorney-client relationship is created by your use of the Legal Information Line. You should not act upon information you receive without seeking independent legal counsel. Information given over the Legal Information Line or in these articles is for your benefit only. Do not practice law or give legal advice to your clients! Inform your clients they must seek their own legal advice.