

## Due Diligence Needed When Selling Your Home

In days gone by, as a vendor you could simply sign a listing authority with an agent or list your property on TradeMe etc for sale without really giving any thought to potential claims against you in the future. We were lucky enough to live in a society where the old maxim *caveat emptor* applied, it was let the buyer beware and let the buyer make their own enquiries as to the suitability of the property.

You as a vendor would simply say to a purchaser “here’s my house for sale, have a good look around and if you are satisfied with it after making your own enquiries please make an offer”.

The leaky home situation that arose in respect of properties built just after the new millennium coupled with notable cases of vendor and agent deception has changed the old system for good.

Previously if you knew there was a problem with your property as a vendor you could market your property with no obligation whatsoever to disclose the problem (as long as there wasn’t deliberate concealment or misrepresentation).

In recent times agents ‘and vendors’ obligations have increased tenfold. Agents must now specifically disclose to potential purchasers known defects and also where it would appear likely to a reasonably confident agent that a property may be subject to hidden or underlying defects, the agent must obtain confirmation from the vendor “supported by evidence or expert advice” that the property is not subject to those defects or ensure the purchaser is informed of any significant potential risk. An agent cannot continue to act for a vendor where the vendor instructs the agent not to disclose defects.

If you are looking at selling your home and you think there may be some building defects or in fact any defect with the property, it pays now for you to consult your lawyer prior to signing a listing authority with an agent so that your lawyer can properly advise you of your duties and obligations. At the same time your lawyer is in a position to also provide you advice on the proposed method of sale. If there is a problem it is best dealt with right from the start of the listing process and that the

appropriately worded purchasing “as is” clause is inserted so that there will be no future redress against you as a vendor.

The system has changed forever, but it leads to greater transparency in the house selling process which cannot be a bad thing going forward in our sophisticated and civilised society.