



Bob Aaron bob@aaron.ca

August 23, 2008

Presence of asbestos kills home purchase

Carlos Lameiro fell in love with a three-bedroom bungalow, near Dixon Rd. and Kipling Ave. in Etobicoke. It has a finished basement with a separate entrance, air conditioning, two kitchens and a great location.

Unfortunately, it came with a problem no one knew about.

After Lameiro's offer to buy the house was accepted, he had five banking days to arrange for a home inspection. He hired Elliott Drewnowsky of Rescom Inspections to check out the house from top to bottom, but when the report came back it disclosed an unfortunate problem.

In the heating section, it notes that part of the heating system is lined with asbestos which should either be removed or encapsulated.

The presence of asbestos in a house is an environmental safety issue. Asbestos is a fibrous material that was used residentially for sound and heat insulation and fire protection.

Asbestos is often found in houses of the 1950s and 1960s era in pipe and duct insulation on heating systems, in sealers on heating boilers, in roofing products, siding, stucco, plaster, drywall compound, panelling, ceiling tiles, floor tiles and sheet goods, wall and attic insulation and in asbestos-cement pipe. (For details, see carsondunlop.com)

If disturbed, the very small asbestos fibres can cause cancer and other types of lung disease when inhaled. The fibres are so small and light that if released into the air, they may float for several days.

In most building products, asbestos isn't normally capable of being released into the air.

However, demolition or renovation work or propane explosions can disturb asbestos-containing materials, causing the asbestos fibres to be released.

When the asbestos problem in the Etobicoke bungalow was revealed, Lameiro asked the sellers to have the material removed. They were only willing to have the material sealed, or encapsulated. Eventually negotiations broke down and Lameiro terminated the agreement.

"The sealing process is only temporary," he told me. "(It) does not safeguard against unintentional physical disturbance, and only the accessible parts can be sealed."

Just how serious a problem asbestos is was illustrated earlier this month when the Sunrise Propane facility exploded and spread toxic asbestos debris all over neighbouring houses.

Normally, home inspections do not disclose or mention hazardous materials, but inspecting for asbestos, says Lameiro, is easy to do.

"Simply lift the heating grilles that come through the floor," he advises. If the house has wood flooring, "look at the area where the duct touches the wood floor if it's white, and looks like white paper or cardboard, it's probably asbestos and should not be touched. If it is black resin, it could be sealed asbestos."

Lameiro told me he thinks that disclosure of asbestos and other hazardous materials should be made mandatory in residential property listings.

Not only is it not mandatory at present, but the subject of asbestos is rarely even mentioned in residential purchase agreements in Ontario.

The standard Ontario Real Estate Association form of offer, which is also used by the Toronto Real Estate Board, contains a detailed warranty with respect to the presence of urea formaldehyde foam insulation (UFFI) in a house, but not a word about asbestos.

This is rather puzzling, especially since available scientific evidence indicates that UFFI is not a problem, while asbestos, if disturbed, can kill. (Again, see carsondunlop.com/OBS/uffi.html)

In light of the explosion at Sunrise Propane, and the experience of buyers like Lameiro, I wouldn't be surprised to see asbestos warranties cropping up in agreements of purchase and sale all over Ontario. Ignoring the issue is not in the public interest.

Meantime, the Etobicoke bungalow is back on the market without disclosure of the asbestos.

Bob Aaron is a Toronto real estate lawyer. He can be reached by email at bob@aaron.ca, phone 416-364-9366 or fax 416-364-3818. Visit the column archives at <http://aaron.ca/columns/toronto-star-index.htm> for articles on this and other topics.