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BEWARE OF THE “DEPARTMENT”

Home inspectors need to be concerned about how the Department of Regulation and Licensing prosecutes cases. Home inspectors in Wisconsin should consider a recent case I am handling. A home inspector inspected a house and made the following comments regarding the roof:

Condition at the time of inspection. Curling, cupping, moss, loose and missing shingles;
Roof has only two roof vents totaling less than one square foot;
Gable and vents are reduced to less than six inches – mixing venting is not advised.
Attic: Signs of leaks/mildew, leaking around chimney flashing;
Roof has three to five years left – repair should be made to missing areas.

In the summary section the home inspector wrote: missing shingles on roof – should be evaluated by roofer for repair. Age of roof is around twenty to twenty-five years. If not for missing shingles life of roof should still be between three and five years.

The buyer used the inspection report to successfully force the seller to reduce the purchase price. After the homeowner purchased the house a roofing repair contractor, who obviously was interested in selling a repair job, indicate that the roof was shot and needed to be replaced. The homeowner believed that it was the home inspector’s responsibility to pay for the replacement of the roof. She filed a lawsuit and the net result of the lawsuit was merely the return of the home inspector’s fee.

However, the Department of Regulation and Licensing decided to take this case and run with it. They assigned the case to an attorney, who has only been out of law school since June, 2000. He had an “investigator” with him, a young lady who obviously knew little or nothing about inspecting homes. The attorney assigned to this case had little or no construction or home inspector experience and clearly had not consulted with any experts in this regard.

The Department attorney asked to interview the home inspector. I thought that bringing in another experienced third party home inspector might be appropriate in the event this young lawyer had some questions. The lawyer promptly informed me that he was not

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interested in hearing anything that a third-party might have to say. He proceeded to take the statement of the home inspector, mostly concentrating on the home inspector's background, the number of classes he has taken, and the amount of business he gets from real estate agents.

Only a small portion of the questioning related to the actual home inspection. When this lawyer from the Department was asked about why he believed the home inspector was not competent; he angrily responded that this was an "ethics" issue. However, his proposed complaint, which was several pages long, related mostly to the competency of the home inspector as did his preliminary letters.

The Department of Regulation and Licensing is looking for a ninety day suspension of the home inspector's license. Additionally they are threatening the home inspector with having to pay all of the legal fees involved in this case, and all of the costs incurred by the Department in investigating this case. Due to limited budgets, many home inspectors cave into the Department's demands, because they can't afford to pay the thousands of dollars incurred by the Department in investigating and prosecuting cases.

Based upon my assessment of this situation, if the home inspector in this case is guilty of violating Department regulations, than all home inspectors are in the same position. In the last communication from the Department, the lawyer stated:

"I will not hesitate to use this case to set a new legal precedent."

You can decide what he meant by this statement. I am merely reporting these facts with the permission of the particular home inspector involved here so that other members of WAHI are familiar with what is out there and what they may encounter in the future.