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What is Asbestos? Where is it?

Asbestos was often used in the construction of residential properties, particularly in the 1950s to 1970s. Asbestos was primarily used as an insulator because it is heat resistant and has a high tensile strength. It was contained in products such as pipe and duct insulation on heating systems, sealers on heating boilers, roofing materials, siding, stucco, plaster, drywall compound, panelling, cement, ceiling tiles, floor tiles, and wall and attic insulation.

What are the Health Effects of Asbestos?

Generally, the existence of asbestos in materials is not hazardous unless disturbed. However, during renovations or demolition work, existing asbestos may be released into the air. The small asbestos fibres that float into the air may cause cancer and other types of lung disease (i.e. asbestosis and mesothelioma) when inhaled. Not all products that contain asbestos are equal in their risk of illness. For example, the fibres in pipe insulation are more likely to break off and become airborne than fibres in floor tiles. Nevertheless, caution should be exercised when dealing with any products that contain asbestos.

Asbestos in Real Estate

The current Ontario Real Estate Association Agreement of Purchase and Sale form does not contain any warranties with respect to asbestos. In other words, **sellers of residential properties are not required to disclose the existence of asbestos in the home to potential buyers.** If the buyer does not inform him/herself, then he/she is risking the purchase of a home that may contain asbestos.

Potential buyers may wish to be certain that the home they want to purchase does not contain asbestos. In order to protect him/herself, a potential buyer would be well-advised to request a warranty from the seller that there is no asbestos in the home. This warranty that survives closing could be drafted into the Agreement of Purchase and Sale. The potential buyer could also request that the sale of the home be conditional on a home inspection. While not all home inspections will reveal asbestos, a home inspector will usually try to identify any potential problem areas.

Asbestos is Discovered – What are the Options?

If the seller or home inspector discloses the existence of asbestos, the potential buyer has several options. First, the buyer could simply be aware that the asbestos is there and continue with the deal. As mentioned above, not all products that contain asbestos are harmful or problematic if left untouched. However, the pipe insulation within the home that contains asbestos has a higher chance of finding its way into the air and ultimately into someone's lungs.

Second, the buyer could request that the seller isolate, seal or encapsulate the asbestos-containing material. This can sometimes be accomplished without incurring much cost and will operate as a suitable safety mechanism in some instances. The problem with this approach is that it is often difficult to fully isolate, seal or encapsulate the problem areas.

Third, the buyer could request that the seller remove all material that contains asbestos. This should be done by professionals, who are appropriately trained in the safe-handling of asbestos. Because of the potential hazards

involved, this option is usually quite expensive.

Finally, the buyer could terminate the agreement (provided that the Agreement of Purchase and Sale contained the appropriate warranty or condition). This is an extreme remedy, but may be the most cost-effective and safest in some situations.

Conclusion

Asbestos can cause severe health problems. However, it is important to be aware that the mere existence of asbestos is not necessarily problematic. It is important for home-buyers to become informed and at least be made aware of the presence of any asbestos. Home inspections are a good start to getting informed, but there is no guarantee that a home inspection will reveal all asbestos in the home. A home-buyer needs to assess the situation on a case-by-case basis, possibly with the help of other professionals, in order to determine the level of risk. The key is to be realistic, while ensuring a safe living environment. For more information on the health risks associated with asbestos, please talk to your doctor or the local Health Unit.

The content contained in this blog is intended to provide information about the subject matter and is not intended as legal advice. If you would like further information or advice please contact the author.

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