

SPIS: Sellers Property Information Statement



By Brian Madigan LL.B.

The question is: “**do you sign one or not?**”
OREA says yes. RECO says yes. But, most Ontario lawyers would say “no”. So, who do you believe?

The real estate industry has created this great new form, it's called the Sellers Property Information Statement, or “SPIS” for short. It is supposed to save the vendors from lawsuits. So, that's pretty good, if it works.

The Ontario Real Estate Association (OREA) drafted up this document in the first place. It's a standard document which the Association encourages be used. The seller will complete the statement at the time of the listing. The existence of the document is noted on the listing agreement, and a copy might even be attached to the listing.

The document although using some qualifying statements goes on to detail the vendor's knowledge about the property. Most of the information can be quite helpful.

The Real Estate Council of Ontario (RECO) specifically require buyers' agents to confirm if such a document has been completed. If they miss it, then that's professional negligence. In a recent “communiqué”, RECO stated “the SPIS has become widely accepted as an integral part of a real estate transaction. However, there can be problems if sellers don't fill them out accurately and completely”.

In order to tone down the statement somewhat and promote its usage, OREA recently amended the document to state: “the seller's knowledge of the property may be inaccurate or (words added) incomplete”.

Notwithstanding, the strong promotion by the real estate industry, lawyers nevertheless have in large measure advised their clients simply not to sign the document. Why? Because, their information may be inaccurate or incomplete, that's why! You are just “opening a can of worms”. Better to leave things unsaid, than make representations that allow you to be sued afterwards.

Remember, you will only be sued if something goes wrong. If everything is fine, then why would your purchaser sue you? So, there's going to be something that is a problem. By the way, just how old is that building anyway? 1910 vintage? How could any reasonable person accurately and completely fill out such a document, unless they possessed an engineering degree?

Well, according to the real estate industry, “just fill it out as best you can”.

But, **whose interest does this document serve?** Actually, it is helpful to the buyer, no question about that. Either there's nothing wrong, and no need to sue anybody, or if there is a leaky basement, this document is going to be quoted "word for word" in the statement of claim.

Also, it is intended to help the agents. They can say, the seller signed a SPIS, blame the seller, don't blame me.

So, really the only person who ever gets stung by this document is the seller, and of course, it's the seller who is asked to sign it, voluntarily.

Only those sellers who say "can I phone my lawyer", end up not signing the document.

If you are vendor and asked to **complete the document**, you should do so, only with the **utmost care**. And, if you are the listing agent, and you are advising the vendor on how to complete the document, get ready for the lawsuit alleging negligence associated with your advice.

Also, just because you are the buyer's agent, you're not off the hook. If there is one, and you don't get a copy of it, you're negligent. And, if you do get one, did you read it properly and provide your client with proper advice?

This whole area is fraught with potential lawsuits, and that being the case, you might wonder why the lawyers would be against it. Maybe it's just the insurance companies wanting to charge higher premiums? I know, you always thought that insurance companies didn't want lawsuits. Nothing could be further from the truth! Think about it, no claims, no lawsuits,..... no premiums. And without premiums, they'd go bankrupt.

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