

A REAL ESTATE GUIDE TO

MOULD



CREA

The Canadian Real Estate Association

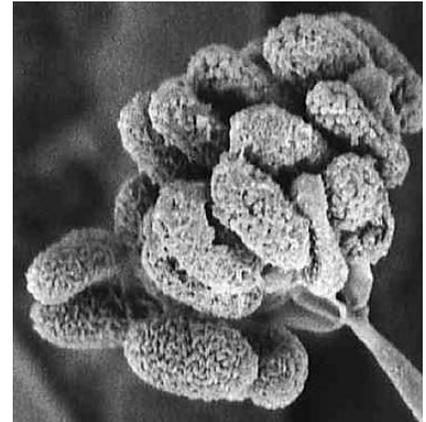
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Background Information

What is mould?

Moulds are microscopic organisms, or fungi, found virtually everywhere, indoors and outdoors. Although they are part of the natural environment, moulds are undesirable when they grow where we don't want them, such as in homes. Over 270 species of mould have been identified as living in Canadian homes.

Moulds are always found in the air outside and inside all buildings. They come into the home in many ways - through open windows or doors, on clothing, pets, food or furniture. The problems start when mould grows inside the home. Mould has the potential to cause adverse health affects, as well as property damage.



What are the warning signs of possible mould growth?



Discoloration is a sign of mould. However, all discoloration is not due to mould. Carpeting near baseboards, for example, can be stained by outdoor pollution entering the home.

Mould may be any colour: black, white, red, orange, yellow, blue or violet. Dab a drop of household bleach onto a suspected spot. If the stain loses its colour or disappears, it may be mould. If there is no change, it probably isn't mould.

Sometimes moulds are hidden and cannot be seen. A musty or earthy smell often indicates the presence of moulds. But a smell may not be present for all moulds. Even if a smell is not evident, wet spots, dampness or water leaks are indications of moisture problems and mould may follow.



What causes indoor mould growth?

High moisture is the major contributor to indoor mould growth. The nutrients mould needs to thrive can be found in a number of the basic elements in a home, including dirt, dust, wood, paper, adhesives, fibers, paint, textiles, carpets, and floors. Different kinds of moulds grow on different materials. Some moulds like an extremely wet environment. Other kinds may be growing even if no water can be seen. Dampness inside the material can be enough to allow mould to grow. The actual germination of mould is caused by a number of factors, including:



Time remaining wet

Mould growth occurs rapidly after an area is wet. The longer the materials stay wet, the higher the likelihood of mould growth.

Water source contamination

The greater the water source, the greater the likelihood of mould growth. For example, loose toilets, pipe condensation, pipe leaks, foundation leaks, and crawl space leaks are all likely causes of mould growth.

Light

Most moulds thrive in dark places like closets, attics, basements, inside walls, behind wallpaper, or behind refrigerators.

Temperature

Temperatures between 20° and 30°C (68° - 86°F) degrees are the optimal temperatures for mould growth.

Air

Mould grows best in stagnant areas, which is why more mould is found in closets, attics and inside walls. Mould is caused largely by poor indoor air quality.

Nutrients

Organic materials such as drywall, wood, ceilings, adhesives, paper, plasters, leather, and cloth are ideal for growth. Homes with more dust and debris will most certainly produce more mould growth.

Humidity

Humidity above 50% RH (relative humidity) is desirable for mould growth.

Moisture

Mould thrives in areas where the moisture content is 18% or greater. Areas such as basement dry-wall, basement wood paneling, or cardboard boxes on the basement floor are likely targets of mould growth.



A case of mould causing structural damage:

B.C.'s "Leaky Condos"

Approximately 10 years ago, owners of condominium strata lots in British Columbia began to experience water penetration through the building walls and into their suites. Initially, the problem seemed to be restricted to a few buildings. It was thought at the time that the leaks were the result of faulty workmanship or defective material.

As the problem became more common, those in the construction field began to speculate that the frequency of buildings suffering water penetration suggested a problem deeper and more complex than faulty workmanship or defective materials.

Leaky condos can be attributed to many factors, including the use of a building design for taller condominium buildings that was actually developed for single or two-story buildings. An analysis showed that on the taller buildings, the design catches extra rain and wind. That may be compounded by the use of "barrier design" or "face-sealed" cladding, which is intended to keep water out, but it does not provide adequate ventilation to dry out once it leaks. The third factor cited in the leaky condo controversy involved unskilled contractors working with incomplete plans. Building techniques that encouraged wrapping buildings in plastic vapor barriers, trapping humidity and condensation are also a contributing factor.

As a result, hundreds of condominium buildings – most constructed during B.C.'s housing boom in the 1980s and 1990's-are now leaking and rotting, and fungi and moulds have grown on floors and walls. In order to repair the problem, the walls have to be opened up, the rotten wood replaced and the building reclad.

Many condominium owners are facing major costs for major substantial repairs. Some condominium units are so badly damaged they are rendered unsaleable.



In 2001, the B.C. Homeowner Protection Office handled an average of 9 new interest-free loan applications a day from leaky condo owners, down from the 15 applications a day handled in 2000. In 2001, condo owners from 38 municipalities in British Columbia applied for repair loans.

The B.C. Assessment Authority also reported that in 2001, property re-assessments were done on 13,161 leaky condo units for the 2002 tax roll, and their overall assessed value dropped \$261 million. By comparison, 14,354 units were re-assessed in 2000 and the reduction in value totaled \$296.6 million.

According to the Assessment Authority, reductions in assessed value have ranged from a low of \$2,000 to a high of \$60,000 per condo unit. The average was \$16,000. Reassessments were based on the cost of repairs and a measurement of local real estate activity.

Photos provided by www.myleakycondo.com

British Columbia's Leaky Condos



Hundreds of condominium buildings – most constructed during B.C.'s housing boom – are leaking and rotting. Fungi and moulds have grown on floors and walls and water has gotten in everywhere. Conservative estimates say it will take over \$1 billion – most of it from the owners – to repair the leaky, poorly built condominiums in southern British Columbia. Many condominium owners were faced with major structural repairs that devoured retirement savings and rendered their units unsaleable.

A provincial commission led by former B.C. Premier Dave Barrett held 29 hearings into "Leaky Condos", and heard from hundreds of beleaguered homeowners. The Commission made 82 recommendations, most of which were quickly adopted as law. Among the most significant changes are the licensing of residential builders and the creation of no-interest loans, funded by fees on new construction and administered by a Homeowner Protection Office, to pay for repairs. A mandatory home-warranty program, funded by developers, will guarantee a condominium is leak-free for five years and free of structural defects for 10 years.

The Provincial Sales Tax Relief Program, which now covers leaky condos, housing co-operatives and single-family dwellings, applies to repairs completed after July 28, 1998 when the B.C. Homeowner Protection Act was passed. Eligible strata councils and co-operative boards administer the grant for the building.

The \$75 million Reconstruction Loan Program provides no-interest loans to homeowners with no other means of financing repairs – usually because they have little or no equity left in their unit. More than \$12 million in loans has already been paid to over 650 owners of leaky condos. To enable more homeowners to participate, eligible homeowners are now allowed to have \$10,000, instead of \$5,000, in liquid assets. Nor do they have to cash in Registered Retirement Savings Plans and pensions to qualify. Retirees with up to \$250,000 in non-pension savings are still eligible. Individuals who own more than one defective unit may qualify for additional loans.

Since June 30, 1999, British Columbia building permits are not issued without effective third-party warranties and a licensed builder. The new warranty standards offer two years protection on labour and materials, five years on building envelope defects and ten years on structural defects.

For more information, contact the BC Homeowner Protection Office at 1-800-407-7757 or 604-646-7050 or visit <http://www.hpo.bc.ca>



Photos provided by www.myleakycondo.com

Mould issues for the Public

Visibility

The problem with mould is that it is everywhere – indoors and outdoors – and it can never be completely removed. The mould that is visible is not always the major problem. When mould grows out of sight – in between walls, in attics, under a roof – it usually means a bigger, more expensive mess to clean up, and the possibility of a health concern.

The biggest concern with mould growth is when it grows in the 'building envelope'. A building envelope is the combination of the foundation, wall, and roof assembly working together to provide a comfortable and safe environment in a building. It also preserves the structural integrity of the building. The building envelope also works in conjunction with the heating, cooling, and ventilation systems.



Perhaps the most recognized mould problem for Canadian consumers is the "Leaky Condo" controversy in British Columbia. The British Columbia Real Estate Association (BCREA) released a position paper on leaky condos in March 2001. According to the paper, since 1983 many Lower Mainland condominiums have been built with a faulty design, costing owners thousands of dollars in repair costs and lost value. Visit the BCREA web site at www.bcrea.ca to read the position paper.

In recent years, homes with a stucco exterior have also received attention because of the possibility of the development of mould due to exterior cracking, water leaks, and mould contamination. Still, there is very little evidence to demonstrate that stucco construction (cement plaster) is any less or more susceptible than other home exteriors. The controversy has developed because of reports some stucco installations may not meet certain building codes. Such cases often involve synthetic stucco products or 'exterior insulation and finish systems'.



But the mould issues are the same. If there is an exterior leak in an unventilated area, such as an exterior wall, water can accumulate and mould can develop. The mould can eventually cause wood failure, and the result is an expensive renovation project.

Health concerns

It is still not clear to what extent mould can pose a health concern. Severe reactions may occur among those exposed to large amounts in occupational settings and no one disputes the fact that mould exposure may produce allergic responses in certain individuals such as wheezing, eye irritations and stuffiness.

However, there's still disagreement amongst the experts whether or not there is a link between indoor mould growth and severe health problems. To date, there have been no Canadian mould cases where any amount has been awarded for personal injury.

Inhalation of fungal spores, fragments, or organic compounds from a wide variety of mould may lead to allergic reactions, cause toxic effects, or cause infections. Illnesses can result from both high level, short-term exposures and lower level, long-term exposures. The most common symptoms reported from exposure to mould in indoor environments are runny nose, eye irritation, cough, congestion, aggravation of asthma, headache, and fatigue.

Whether or not these symptoms develop in people exposed to mould depends on the susceptibility of the exposed person the amount of exposure, and the species of mould.

- **Susceptible individuals** - those allergic to mould, those with low immunity and babies whose lungs are not completely formed;
- **High levels of exposure** - exposure to large numbers of spores over a long period of time; and
- **Species of mould** - the more noxious moulds pose the greatest risks.

The presence of mould on surfaces does not mean automatic exposure and illness. In order for humans to be exposed indoors, fungal spores, fragments, or organic compounds of mould must be released into the air and inhaled, physically contacted, or ingested.

The effects of inhaling mould spores include allergies, infection or irritation.

Allergic reactions - a significant portion of asthmatics are allergic to moulds, so that exposure can bring on attacks. Other forms of immediate and delayed allergic responses, such as hayfever (allergic rhinitis), also may occur.

Infectious mechanisms - in immuno-compromised individuals, exposure to moulds that would not normally cause illness can result in infection, termed mycosis. Only a small group of mould fungi have been associated with infectious disease.

Toxic and Irritative effects - long-term exposure to moulds has been associated with a number of non-specific respiratory and flu-like symptoms, headaches, skin problems and impaired immune functions as well as a lung condition in infants known as pulmonary haemosiderosis.

Not surprisingly, young babies, asthmatics, and persons who have poor immune systems (such as those undergoing cancer treatment and persons with HIV) are at the highest risk if they are exposed to large amounts of mould.

Getting rid of mould

It is impossible to get rid of all mould and mould spores indoors. Some mould spores will be found floating through the air and in house dust. Because mould can never be completely removed, professionals use the term 'abatement' when describing mould removal.

However, the mould spores will not grow if moisture is not present. By controlling the moisture level inside the home, indoor mould growth can be prevented. Once mould growth is located inside the home, it is important to act quickly. Mould damages what it grows on, and the longer it grows, the more damage it can cause.

In all situations, the underlying cause of water accumulation must be corrected or mould growth will recur. To dispose of mould and prevent re-growth, seek professional help and control the moisture in the home.

Seeking professional help

The Canada Mortgage and Housing Corporation (CMHC) recommends seeking professional help when there is an extensive amount of mould and the home is very damp and moist. Professional help will also be required if mould comes back after repeated cleaning and if a family member suffers from asthma or respiratory problems or other health problems that appear to be aggravated inside the home.

When seeking professional help, it is important to hire a company that has previous environmental experience in lead or asbestos abatement. Although an Indoor Air Quality investigator will be able to test the air for signs of mould, they are not trained and qualified in the abatement or encapsulation of mould.

Moisture control

Mould needs moisture to grow. Controlling the moisture and keeping the home dry prevents the growth of mould. Check the home for signs of moisture and moulds. Moisture is produced in the home through daily activities like bathing, washing clothes or cooking. High moisture levels can be the result of water coming in from the outside, through the floor, walls or roof; or from plumbing leaks. Moisture can also accumulate within the home when there is not enough ventilation to expel the excess water.



The most common sources for moisture that can develop into mould are roof, wall or basement leaks.



Mould issues for REALTORS

Although mould is a constant presence in any indoor environment, homeowners and tenants across the country are paying more attention to any impact mould may have. The extreme cases involve major renovations where mould has weakened or damaged the structure of a home or condominium. As a result, REALTOR liability is a concern. In addition, some insurance companies are taking steps to limit coverage for mould damage.

However, scientific research on the relationship between mould and health problems is inconclusive. Currently there are no established standards for acceptable levels of indoor mould. Despite the lack of standards, mould is the latest environmental health issue generating public attention. REALTORS are potentially liable for failure to disclose an environmental hazard.

As the issue of mould emerges in Canada, REALTORS should be as well informed as possible about the issues. The best advice to a seller is to disclose any water problems or presence of mould up front. The best advice to buyers is "beware."

Insurance issues

In Canada, the Insurance Board of Canada (IBC) has issued an advisory to its members, recommending that member companies exclude mould completely from any policy.

According to the Dominion of Canada General Insurance Company, there are many reasons why the insurance industry is taking another look at their insurance policies pertaining to mould. The insurance industry is losing money – companies are paying out more in losses and operating costs than they are taking in. The year 2002 replaced 2001 as the worst recorded return on investment in industry history. As a result, the industry has made decisions to focus on risk management; largely due to the increasing cost of auto injury claims and claims following the events of September 11th.

This new focus on risk management regarding mould claims "has nothing to do with the hysteria surrounding the issue in the U.S," says Anne MacKenzie of Dominion. "We need to evaluate the risks we are taking on. We are more aware of the need to pay attention."

In Canada, there has been no explosion of mould claims. From 1995 to 2002, there were less than 30 'mould' lawsuits in Canada, including two failed class actions.

Mould is viewed by insurers as an 'inevitable risk', "and something inevitable is not insurable. Mould is excluded under the category of deterioration. If you don't treat the problem – mould will inevitably happen," says Anne MacKenzie.

Mould is not a new phenomenon in the insurance industry. Insurers have been dealing with mould and water claims for a long time, and say they are not backing away from coverage.

Some insurers are offering mould coverage in separate environmental insurance policies, under the umbrella of indoor air quality. According to the Ontario Real Estate Association (OREA), the premiums for environmental insurance are quite high-about \$10,000 for \$1 million of coverage – which is expensive for residential property owners.

For multifamily housing, annual premiums for an environmental policy with mould coverage generally run about 20 per cent higher than the cost of a policy without such coverage. For commercial buildings, the premiums are about 10 per cent higher than the cost of a standard environmental policy. Mould coverage can come with all sorts of limitations and conditions, such as the requirement that potential policyholders have a plan for preventive operations and maintenance for the property. Moreover, there are no uniform standards for what such coverage should include or cost.

Not surprisingly, the anxiety within the insurance industry respecting the possible reach of mould claims has resulted in the Insurance Bureau of Canada analyzing the problem and issuing advisories with respect to policy wording.

In May 2002, the "Mould Advisory Group," a committee of the Insurance Bureau of Canada, recommended that insurers tighten up wording in their policies concerning mould-related damage or injury. It noted that skyrocketing claims in the United States, mainly involving water and flood damages to residences, could spill into Canada.

However, Vancouver lawyer and insurance litigation specialist Nigel Kent says that it is highly unlikely that there will be an explosion of mould litigation in Canada, similar to the US experience.

Kent adds that there will be occasional liability cases arising from mould infestations. Indoor air quality issues and sick building syndromes may cause the closure of high profile court houses, schools or other public buildings and significant litigation may ensue from time to time.

There are several factors that, when combined, have led to the recent increase in mould-related claims and litigation:

- The 1970s energy crisis led to the construction of commercial and residential buildings that created sealed environments for occupants and residents. Sealed environments were created by sealing windows shut and installing centralized mechanical ventilation (HVAC) systems. Sealed environments do not allow for moisture evaporation, creating environments suitable for mould growth. In addition, central HVAC systems may spread and re-circulate mould spores.
- Pressure to complete new construction quickly and cheaply has frequently led to the use of different building materials that can encourage the faster growth of mould. Also, pressure in recent years to meet housing demand may have led to the use of inexperienced laborers and contractors. This may have resulted in poor construction practices, which in turn may have left buildings that allow for water entry and moisture accumulation, providing an environment for mould growth.
- Media attention that has centered on mould-related illness and litigation has increased public awareness of mould issues. Also, there is an increased awareness of indoor air quality issues in general, as government and scientific agencies research and publish findings on these issues.

Historically, claim trends specific to mould are difficult to establish because many mould-related claims are often presented and processed as water damage claims, sick building (related to indoor air quality) claims, or construction defect claims. Insurers are beginning to track mould-related claims separately. In an attempt to quantify increases in frequency and severity, some insurers may have to review historical water damage, sick building and construction defect claims to determine which of these may have been mould-related.

Some insurers speculate that mould-related claims could cost the insurance industry billions of dollars nationwide if nothing is done to control the situation.

For more information about the increase in mould-related claims and litigation facing insurers, claims issues, and insurer responses in the U.S, visit <http://www.themoldsource.com/newsarchive/moldstate.html>

Errors and Omissions Insurance

The presence of mould in real estate is not new. However, as a result of media attention and insurance claims, particularly in the United States, insurance companies have taken steps to avoid coverage for mould related claims.

REALTORS in Manitoba were advised by their Errors & Omissions (E&O) insurance provider that effective January 1st, 2003, they were no longer covered for mould liability under their E&O liability insurance. A "mould exclusion" has been added to the E&O policy. The Manitoba Real Estate Association (MREA) originally bought coverage from the London Guarantee Insurance Company, but the company was then bought by St. Paul, a U.S company.

In very general terms, the current E&O policy will no longer cover loss that results from "any actual, alleged, or threatened:

absorption, ingestion, or inhalation of mould or other fungi, or bacteria, in any form by any person; or existence of mould or other fungi, or bacteria, in any form."

The MREA is continuing to investigate other options for member REALTORS to limit potential liability for claims arising under this category, which is excluded from insurance coverage.

In the meantime, MREA urges REALTORS to be sensitive in noting water stains in ceilings, walls and around toilets and showers. REALTORS are not mould experts, microbiologists or certified inspectors. As a result, MREA advises REALTORS to not make any representation regarding the existence or non-existence of mould in a particular property. If the presence of mould is suspected, REALTORS should suggest that the owner have a mould inspection. There are several inspectors listed in the yellow pages under "mould testing", "environmental consultants" or "indoor air quality".

Sample mould disclosure and waiver form

This document alerts clients to the possibility that mould contaminants may exist in the Property of which the Broker or Agent(s) is unaware. In the event suspect mould contamination is discovered, this disclosure provides documentation that the REALTOR has recommended that the clients satisfy themselves as to property condition by having a mould inspection performed. This document is intended to be an educational tool. If used in a real estate transaction attorney review and broker approval is strongly advised.

MOULD DISCLOSURE and WAIVER

Printed Name(s) of Buyer(s) _____

Printed Name(s) of Seller(s) _____

Property Address _____

____ Clients Initials

MOULD INSPECTIONS. Mould contaminants may exist in the Property of which the Broker or Agent(s) is unaware. These contaminants generally grow in places where there is or may have been excessive moisture, such as where leakage may have occurred in roofs, pipes, walls, plant pots, or where there has been flooding; these conditions may be identified with a typical home inspection. Broker recommends **CLIENT** obtain a home inspection to better determine the condition of the property. Neither the Broker nor the Broker's Agents are experts in the field of mould contaminants. In the event suspect mould contamination is discovered, it is recommended that our clients satisfy themselves as to property condition by having a mould inspection performed. The cost and quality of such inspections may vary. Companies able to perform appropriate inspections may be found in the Yellow Pages or on the Internet under "Microbial or Mould Inspections" or "Environmental and Ecological Services."

CLIENT DISCLOSURE.

- The Broker or Broker's Agent has recommended the client obtain a Home Inspection: ____ Initials
- The Broker or Broker's Agent has recommended the client obtain a Mould Inspection: ____ Initials

WAIVER. Client agrees to hold the Broker and Broker's Agents harmless in the event any mould contaminants are discovered on the property. Client understands mould is a naturally occurring microbe and that mould should pose no health threat unless concentrated at high levels in the living environment. The Broker and the Broker's Agents agree that in the event mould like contamination is discovered, this condition will be immediately reported to the client. The only way to determine if a mould like substance is truly mould or is present at high levels is through sample collecting and analytical testing.

RECEIPT OF COPY. Client(s) have read this Mould Disclosure/Waiver and by their signatures hereon acknowledge receipt of a copy thereof.

PROFESSIONAL ADVICE. Client(s) execute this Disclosure/Waiver with the understanding that they should consult with a professional of their choice regarding any questions or concerns before its execution.

LEGAL ADVICE: Client(s) acknowledge that this waiver does not attempt to offer legal advice. If client(s) feel the need for legal advice they should consult an attorney of their choice prior to the execution of this document.

Client: _____ Date: _____

Client: _____ Date: _____

Agent: _____ Date: _____

Broker: _____ Date: _____

Frequently Asked Questions for REALTORS

1) **As a listing agent, am I required to disclose to a customer buyer that a property has mould or underwent mould abatement?**

Remember that this question presumes there is no client relationship between the REALTOR and the buyer. In these circumstances, the disclosure obligations of a listing agent are generally the same as those of the seller. If the seller is required to disclose, so too is the agent.

Sellers (and therefore listing agents) are obligated to make disclosures in the following circumstances:

1. **When there is an actual material latent defect of which the seller knows or ought to know.**

The existence of mould may or may not be such a defect, depending on the circumstances. If it could be discovered through the exercise of reasonable vigilance in an inspection, then it is not a latent defect and does not need to be disclosed. If it is not "dangerous" then it may not be a "material defect" and may not have to be disclosed, even if it is latent. However, as certain mould can be extremely dangerous, REALTORS should always err on the side of caution and assume that if mould exists, it is sufficiently "dangerous" to constitute a "material defect".

2. **When the buyer asks a specific question or expresses a specific concern.**

All questions must be answered honestly. If buyers ask about the existence of mould or mould abatement, they must be given accurate information. Also, because certain people may be particularly susceptible to mould, listing agents must be prepared to volunteer the information if they are advised of allergies or other medical conditions.

3. **When the agreement of purchase and sale contains representations that the property does not or has never had mould problems.**

Any warranties contained in the agreement must be honored. If the agreement of purchase and sale contains a mould warranty, the seller would be liable for signing it without disclosing pertinent information to the buyer.

4. **When there is some statutory requirement that this disclosure be made.**

2) **As a buyer agent, am I required to disclose to my buyer client that a property has mould, or underwent mould abatement.**

Yes. There is absolutely no question that you are responsible for making such a disclosure to a client. If you are a buyer agent and the property the buyer is looking at, to your knowledge has or had mould, you have an absolute obligation to disclose that fact in accordance with your duty of full disclosure which is owed by any agent to a client. In fact, as part of your obligations as a buyer agent, you should take reasonable steps to ensure that the property does not have a mould problem.

3) **As a dual agent, do I have an obligation to disclose to my client buyer that my listing has or had a mould problem?**

Yes. If you are representing both the buyer and the seller as dual agent, you have an agency obligation to disclose all pertinent information to both parties. In this case, you must disclose to the buyer that the property has or had a mould problem. As the seller may have no such obligation in law (depending on the circumstances), it is extremely important that sellers be made aware of this obligation before they agree to the dual agency.

4) What are the legal consequences of selling a home without disclosing that it has mould or underwent mould abatement?

It may be that there is no obligation to disclose that the property had mould (see Question 1). That is the first area of inquiry a REALTOR must undertake. There is, however, always an obligation to disclose material latent defects that are known or should be known by the seller. Both the seller and the listing REALTOR (if they knew or ought to have known) could be liable for damages to the buyer for the costs of any necessary repairs to remove all mould and make the property fit for habitation. If there was a deliberate attempt to hide the problem, the court may also award punitive damages for that type of conduct.

5) Often, mould growth is not visible (growing between walls, under floors etc...) Can I be held liable for non-disclosure if I did not know it was there?

REALTORS are required to exercise a reasonable standard of care in fulfilling their duties. As a listing agent, you have an obligation to make reasonable inquiries as to any defects that may affect the marketability of the home. If a seller advises you that no problems exist, and there is nothing in the physical condition of the property to suggest otherwise, you may be able to rely on that representation. In some situations, however, REALTORS may not be able to simply take the seller's word for the status of defects, and may be required to investigate further. The question is not just "Did you know it was there?" The question also is "Should you have known it was there?" If you have ignored or missed the warning signs for mould, you may be liable, regardless of what the seller told you.

6) While mould may not be visible, my client has told me there was a flood in the basement each spring for 3 years until he fixed the sump pump. Should this be mentioned as a potential source for mould?

Not necessarily. While moisture may give rise to mould, the existence of water does not necessarily mean mould is inevitable. A reasonable investigation should be undertaken. How many years did the flooding take place, how long was the water allowed to sit, and most importantly, are any of the warning signs of mould evident in the area? If not, disclosure of "possibilities" may not be mandatory. However, the seller should be advised that full disclosure of past water problems is an ethically positive step, even if it is not legally required. Once that disclosure has been made, it is up to the buyer agent to recommend to the buyer that adequate inspections be undertaken.

7) Should a listing agent advise the seller to have a mould inspection done on each residence listed, whether or not there is obvious evidence of mould infestation? In the event an inspection is necessary, what type of inspection is recommended and what would be the approximate cost to the client?

A seller does not need to conduct a mould inspection if there is no history or warning signs to indicate mould may exist. Indeed, it may be that the obligation to conduct the inspection is on the buyer, not the seller. However, if there were any indications that mould may exist, it would be in the seller's best interests to have an inspection done. This will avoid the potential of long-term liability. A buyer's agent should always recommend a building inspection to the buyer, and it would be prudent to ensure the inspector is also certified to check for mould. To find a Certified Mould Inspector, please visit the Canadian Association of Home and Property Inspectors web site at <http://www.cahi.ca>.

Note: *These comments do not constitute legal advice. When uncertain how to proceed in any particular circumstance, REALTORS should consult their lawyers.*

Want more information?

The following web sites provide information about mould:

- U.S. Environmental Protection Agency (EPA)
www.epa.gov/iaq
- Indoor Environments Division (IED): An Office Building Occupant's Guide to IAQ
www.epa.gov/iaq/pubs/occupgd.html
- Biological Contaminants
www.epa.gov/iaq/pubs/bio-1.html
- Building Air Quality Action Plan (for Commercial Buildings)
www.epa.gov/iaq/base/actionpl.html
- Floods/Flooding
www.epa.gov/iaq/pubs/flood.html
- Mould Resources
www.epa.gov/iaq/pubs/moldresources.html
- Association of Specialists In Cleaning and Restoration (ASCR)
www.ascr.org
- New York City Department of Health, Bureau of Environmental & Occupational Disease Epidemiology
www.ci.nyc.ny.us/html/doh/html/epi/moldrptl.html
"Guidelines on Assessment and Remediation of Fungi Indoor Environments"
- Health Canada - "Fungal Contamination in Public Buildings: A guide to recognition and management."
www.hc-sc.gc.ca/hecs-sesc/air_quality/pdf/fungal.pdf
- CMHC - The condominium Owners' guide to Mould
www.cmhc-schl.gc.ca/en/burema/gesein/abhose/abhose_ce44.cfm
- Fighting Mould - the Homeowners Guide
www.cmhc-schl.gc.ca/en/burema/gesein/abhose/abhose_ce08.cfm
- Solving Persistent Moisture Problems and Moisture Damage
www.cmhc-schl.gc.ca/en/imquaf/himu/bebufa_005.cfm
- National Centre for Environmental Health
www.cdc.gov/nceh/airpollution/mold/moldfacts.htm

Other Resources:

- Canada Mortgage and Housing Corporation (CMHC).
Fighting Mould: the homeowner's guide
All rights reserved. Reproduced with the consent of CMHC. All other uses and reproductions of this material are expressly prohibited.
- Mould Claims in Canada: Property and Liability Insurance Issues
By Nigel Kent
Clark, Wilson BC's Law Firm for Business
800- 885 West Georgia Street
Vancouver, B.C V6C 3H1
www.cwilson.com

Any questions or comments about the service or products CREA provides?
You can contact us on-line at info@crea.ca.

CREA

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