

AI Gage Report

October 2021



Nightmares for Halloween!

Totally Clickbait! I tricked you, this article is going to be about disclosure and misrepresentation and not about Halloween, although it may include ghosts and certainly includes things that give me, as a licensed agent, nightmares. I also want to include that I am talking to you about standards of practice as a real estate agent. In no way am I offering legal advice, practicing law and I have never played an attorney on TV nor did I sleep at Holiday Inn Express last night.

Very generally, a seller has the legal obligation to disclose anything and everything to the buyer that is a material fact about the property or area that may affect what the buyer is willing to pay or influence their decision to buy a property! There are a few exceptions to this that we will get into later.

There are two parts to this that give me nightmares when working with a client. The first is it is very difficult to determine what is a material fact to a buyer that neither the seller or me, as the agent, have ever met. Here are just a few examples of material facts in our neighborhoods that may come into play: A property backing to the school with the children playing may seem to be a positive to most, but may be a negative material fact to the night worker who has to try to sleep all day. For some, the property backing to the Goodyear Farms Cemetery may be a negative, but, to at least one appraiser, it was upgraded to a positive by adjusting the price of the comparable sale upward, because the property backed to a "common area". The proximity to an airport or Air Force Base or a EPA Superfund site all could be items that a buyer could claim were material facts that were omitted by a

seller and would have altered their decision to buy or the price paid.

Now let's talk about conditions of the individual property. **If you have had roof rats, scorpions, snakes, bats, pigeons, gophers, feral cats, coyotes, bobcats, pterodactyls or ground sloths, you have to disclose that fact to the buyer. If it was only crickets or mastodons probably not, but it is also not going to hurt to disclose those facts.**

The part about disclosure that scares me the most is the unintentional kind. If you intentionally hide a defect that you know about in your home to try to mislead a buyer, then please don't call me. I believe the law has a special place for these people.

By unintentional, I am talking about the leaky drain that leaked in 2004 in the main bath, was repaired by a licensed plumber, and hasn't given one hint of a problem in the 17 years since it was repaired. **You, as the seller, completely forgot about it and fail to disclose that this occurred.** Buyer buys the house, closes and moves in with their highly sensitive grandfather. They attempt to move one electrical outlet in that bathroom and discover a black fuzzy substance growing profusely behind the drywall. Granddad gets very sick! Are we liable for the mold because it was there? The answer is no! Are we liable for the mold because granddad is sensitive? No! We are liable for the mold and the medical costs because we failed to disclose a leak in that bath that may have led the buyer or their inspector to find the mold. The plumber who repaired the leak has long since moved to Tahiti and good luck

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collecting from them for the fact that they plumbed the drain open to the wall. Of course you know that this story had too much detail to not be a true story.

I worry about many of my seller's either forgetting such repairs or getting to the age where memory fades just a bit and unintentionally failing to disclose such repairs to the buyer. One way that this can be prevented is to just maintain a complete and concise list of repairs either on a spread sheet or on paper if you like.



Now lets go to the second thing that gives me nightmares.

Seller's relying on third party information to represent things to a buyer.

If you tell me the hot water heater was replaced in 2019 and I look at the hot water heater and it is not obviously older than that, I, as the agent, can rely on what you tell me and do not have an obligation to investigate further. Same thing with the buyer's agent. If you told me the home was built in 2019 and I tell the buyer's agent 2019 and it looks like 2019, we don't have an obligation to investigate further because the condition of the property, outside of red flags, is beyond our scope of expertise.

I want to give you an example of a scenario where a seller could unintentionally and innocently be liable for a misrepresentation. Bob and Suzie, (names have been changed to protect the innocent) purchase a new set of solar panels in 2018 at a cost of \$27,000. The salesman for the solar company represents to Bob and Suzie that the solar system has a 20-year transferable warranty. In 2020, Bob and Suzie sell the home and proudly represent that the solar has 17 years left on the warranty and the system is working great, because it is working great! In 2025, Richard and Jane find out the solar is malfunctioning and cannot be fixed requiring an entire new system. When they go to the solar company for replacement or repair, they find out the warranty does not cover replacement, only repair, and the warranty is not transferable to a new owner. Of course, this disclosure is in the fine print on the website. In this case, the seller may be liable to the buyer for those repairs by unintentionally representing that the solar had a warranty. Admittedly, the sellers also probably have a case against the solar company and that salesman for misrepresenting the

warranty provision. I also think the buyer and their agent has some responsibility to investigate the stated facts surrounding a warranty, so this one may end in a split decision but who wants to go through this process?

Now to the actual ghoulish part, you are not required (but also not prevented) from disclosing that a death, homicide, or other form of violent crime occurred in the property. This is very important to some people, and I will tell you that a person leaving in an ambulance did not die in the property. A person leaving with the coroner or in a hearse did die in the property. All that being said, you do have to disclose the presence of a ghost!

If you want to be protected from such nightmares, goblins and other mysterious creatures of the real estate night, give the AI Gage team a call at 623.536.8200 or email us at ai@algage.com

Find us on  /AIGagePC



Terri's Tips: NAME THAT CANDY

Just a quick game from Terri for Halloween! Try to name these candy Bars? The answers are on the website at <https://www.algage.com/SubscribeToENewsletter.html> or www.algage.com and click on Newsletter.

- 1. Happy Cowboy _____
- 2. Galaxy _____
- 3. Red Planet _____
- 4. Not laughing out loud _____
- 5. Can't hold onto anything _____
- 6. A famous author _____
- 7. Famous New York Street _____
- 8. Round flotation device _____
- 9. In the present or the future _____
- 10. Dry cows _____

HAVE A SAFE AND HAPPY HALLOWEEN!





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Go to www.al@algage.com/SubscribeToENewsletter.html or just send us an email with your address and subdivision. We now offer individual subdivision reports. Stay up to date with the current news, right in your inbox. Subscribers are placed in a drawing to win a set of FREE gift cards! 2 gift cards will be given out this month! Please share this opportunity with family, friends, and neighbors.

featured listings



12344 W. Virginia

A fabulous Brigata model with a pool, lots of upgrades, 2335 S.F. 4BR, 2 BA in Rancho Santa Fe.

SOLD by **Al Gage** for **\$470,000**



12534 W. Honeysuckle Dr.

A beautiful 1668 S.F., 3 BR, 2 BA in Wigwam Creek featuring master bedroom with a bay window and a sitting area, family room and lots of ceramic tile.

Listed by **Al Gage** for **\$385,000**



3713 N. 125th Dr.

2169 S.F. 4 BR, 3 BA with downstairs suite, huge kitchen with extra cabinets, counter space and large eat-in area. RV gate and lots of pavers in the back yard!

Listed by **Al Gage** for **\$400,000**



10937 W. Cottonwood Ln.

A Charming 3 BR, 2 BA, 1997 S.F. with a fully paid Solar Lease, lots of wood style porcelain tile, huge pergola and much more in Garden Lakes!

Listed by **Al Gage** for **\$400,000**

What's My Home Worth?

Email Al at al@algage.com with the address, a list of upgrades, the current condition of the property rated < from 1 being terrible condition and 5 being model perfect > and he will personally prepare a professional market analysis of your home free of charge. Use "What's my home worth?" in the subject line and also include the purpose of the evaluation in the email.

No automated valuations here!

Want a current and local Market Update? Go to www.algage.com/October2021MarketUpdates.html

In 2020, Al Gage successfully represented **125%** more clients than the closest competitor and **283%** more than the average of the Top Ten Agents in your neighborhood! #1 in your neighborhood five years in a row!



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Over 1400 Homes Sold in Avondale and Litchfield Park!

Subdivisions	Home Levels	2019 Sales #s	2019 Price/SF	2019 Days on Market	2020 Sales #s	2020 Price/SF	2020 Days on Market	% Change In Price per SF	Sept 2021 Sales #s	Sept 2021 Price/SF	Sept 2021 Days on Market
Cortes Sierra/Sage Creek/Las Palmeras	1	68	144.9	36	61	167.3	23	15.45%	2	263.1	27
Cortes Sierra/Sage Creek/Las Palmeras	Multi	33	125.3	39	31	138.7	36	10.69%	6	186.8	37
Crystal Gardens, Crystal Ridge, Crystal Point, Upland Park and Donatella I	1	103	146.7	42	99	162.1	35	10.50%	6	223.7	23
Crystal Gardens, Crystal Ridge, Crystal Point, Upland Park and Donatella I	Multi	26	119.1	66	32	135.3	37	13.60%	6	219.9	16
Garden Park, Palm Meadows, Palm Gardens and Donatella Phase 2	1	48	141.8	34	29	156.3	27	10.23%	0	0	0
Garden Park, Palm Meadows, Palm Gardens and Donatella Phase 2	Multi	20	107.0	61	17	120.5	30	12.62%	1	157.4	21
Rancho Santa Fe	1	83	145.3	50	68	160.2	29	10.25%	10	218.2	20
Rancho Santa Fe	Multi	36	126.2	41	36	136.0	28	7.77%	2	208.6	20
Westwind and Glenarm Farms	1	24	165.6	47	15	168.3	44	1.63%	1	296.6	5
Westwind and Glenarm Farms	Multi	21	136.4	41	12	128.2	44	-6.40%	0	0	0
Wigwam Creek South and Bel Fleur	1	65	139.8	43	76	159.2	22	13.88%	3	216.4	22
Wigwam Creek South and Bel Fleur	Multi	45	101.3	73	37	116.0	35	14.51%	2	156.2	46