

# Understanding the As Is Clause When Buying and Selling Real Estate

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Recently, the Pennsylvania Superior Court ruled in a Dauphin County case that an "as is" clause in an Agreement of Sale for real estate does not eliminate the obligation by the seller of residential real property to complete a seller's Disclosure Statement for the property, which is intended to disclose any known material defects with the property.

The purpose of an "as is" clause is to force the buyer to rely upon its own investigation rather than upon the seller's representations in determining whether or not to purchase the property. However, this does not mean that a seller can withhold information relevant to the condition of the property.

Accordingly, sellers can best protect themselves from liability for misrepresentation by taking the following steps:

- disclosing any defects known to the seller that are not readily discoverable by the buyer;
- using an "as is" clause in the real estate purchase agreement; and
- granting broad inspection rights to the buyer.

It is important to have sound advice when preparing to buy or sell real estate. An experienced real estate attorney can anticipate, identify, and resolve problems that may arise, including a review of a proposed purchase agreement and continuing through the real estate closing.

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