

Home Inspection Report: Tool or Weapon?

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The "divorce rate" between buyer and seller is typically at its highest soon after the home inspection occurs. Defects documented in black and white make many a buyer declare that he has "lost that lovin' feeling".

When it comes right down to it, home buyers frequently use the home inspection report as a weapon. The home inspection report has evolved from **providing the client with a better understanding of the property condition, as observed at the time of the home inspection** to a club to beat the seller over the head and to renegotiate the price of the home.

So, who really kills the deal? We home inspectors often take the heat. In reality, everyone involved in the transaction is a conspirator if the difference between the Standards of Practice of the North Carolina Home Inspector Licensure Board (NCHILB; www.nchilb.com) and the standard North Carolina Offer to Purchase and Contract, specifically Paragraph 13(a) is not understood. These two documents are written for different purposes, and not understanding this often places all parties to the transaction at cross-purposes.

The Home Inspector Licensure Act, NCGS 143, Article 9F is the law governing home inspections that created the NCHILB. The stated purpose of this article is *to safeguard the public health, safety, and welfare and protect the public from being harmed by unqualified persons by regulating the use of the title "Licensed Home Inspector" and by providing for the licensure and regulation of those who perform home inspections for compensation.* This purpose declares the law's intention as protecting the citizens of our state. By protecting the citizens, it also protects all parties to the transaction.

Paragraph 13(a) allows for the property to be inspected and describes specific items/systems that must **"be performing the function for which intended and shall not be in need of immediate repair"**. In contrast to this abbreviated list, the home inspection report covers many more items than those included in the Offer to Purchase. While the purpose of Paragraph 13(a) is to limit a seller's contractually mandated responsibility for operational systems, the purpose of the home inspection is to provide full disclosure to the buyer regarding the condition of the property. Thus, Paragraph 13(a) deals only with a subset of the information that a responsible consumer would want to know about the property being purchased.

One way of looking at this might be to think of the NCHILB Standards of Practice producing a report consisting of apples, peaches, pears and bananas. Paragraph 13(a) only addresses bananas. The end result is that the real estate agent must understand the limitations of the contract and sort the fruit. This is not an easy task; however, the language in Paragraph 13(a) clearly lists the items/systems involved. Reconciling these two very different legal documents is the challenge. When the facts outlined above are understood and properly communicated, then a framework is in place to deal with the issues that arise.

The following lists present some of the items that cause difficulties in the transaction. The first list contains some items that are included in Paragraph 13(a), but are not required to be inspected by the Standards of Practice. The second list contains some items not included in Paragraph 13(a), but are required to be inspected by the Standards of Practice. The third list contains some items that are not addressed by either Paragraph 13(a) or the Standards of Practice.

Some items that are **INCLUDED** in Paragraph 13(a) but are **NOT** required to be inspected per the **Standards of Practice of the NCHILB** are:

- Detached Structures (Garage, Storage, etc.)
- Storm Doors/Windows
- Operation of air conditioning systems if it might cause damage (such as when temperatures are under 60 degrees)
- Friable Asbestos
- Environmental Contamination
- Non-accessible areas

Some items **NOT** included in **Paragraph 13(a)** but **INCLUDED** in the **Standards of Practice of the NCHILB** are:

- Areaways, Driveways, & Walkways
- Retaining Walls/Foundation Walls
- Sump Pumps
- Skylights
- Patios
- Wall Unit Garage Door Openers
- Insulation
- Vapor Barriers
- Countertops & Cabinets
- Verifying a heat source in each room

Some items that are **NOT** addressed by **either Paragraph 13(a) or the Standards of Practice of the NCHILB** are:

- Irrigation Systems
- Shutters
- Awnings
- Fences
- Antennae/Satellite Dishes
- Lightning Rods
- Underground Storage Tanks
- Hot Tubs/Spas/Pool
- Air Cleaners/Humidifiers
- Solar Equipment
- Draperies/Blinds
- Heat/Carbon Monoxide Detectors
- Low Voltage Electrical Systems
- Window Air Conditioners
- Wallpaper/Paint
- Carpeting
- Oven Clocks/Timers/Thermostats
- Oven Self-Cleaning Functions
- Water Softeners/Filters
- Non-built in Appliances (Refrigerators, Etc.)
- Speaker Systems/Intercom Systems
- Built-in TV Equipment
- Telephone and Cable TV Equipment
- Security Systems
- Fireplace Insert Flue Connections
- Interior of Chimney Flues
- Remote Garage Door Openers
- Abandoned Wells

These lists are by no means exhaustive; however, they provide all parties with a much better understanding of the limitations and requirements placed upon the buyer and seller. As real estate professionals, it is critical to understand the source of the conflict that currently exists and become knowledgeable of the differences in the two forces at play as the contract and home inspection converge. These divergent forces will remain until there is a formal reconciliation made between Paragraph 13(a) and the NCHILB Standards of Practice.

Paragraph 13(c) of the Offer to Purchase and Contract does not require the seller to make repairs, nor does it require repairs to be performed by licensed contractors. On the other hand, for the last three years the NCHILB has required all licensed home inspectors to take four hours of mandatory continuing education regarding the writing of home inspection reports. A major point of emphasis in these courses has been the use of wording that tells the client to have the defects addressed by a licensed general contractor, plumbing contractor, electrical contractor, or other qualified specialist.

The intent of the NCHILB in recommending these is to encourage the use of professionals for repair, thereby protecting the buyer from the seller's Uncle Jackleg making repairs. Yet, Paragraph 13(c) does not prohibit Uncle Jackleg from making those repairs. Therefore, confusion reigns due to the significant differences between what Paragraph 13(c) says and what the NCHILB requires of Licensed Home Inspectors in the written report.

Where do we go from here? The real estate agent should help the buyer understand that only the items listed in Paragraph 13(a) can contractually be considered in the Offer to Purchase. This means that the buyer must understand that not all things listed in the home inspection report are contractually required to be repaired. This does not mean that the item is not worthy of repair! It simply means that the item is not addressed under Paragraph 13(a). Helping the buyer understand this fact prior to the home inspection will reduce the emotions and expectations that currently arise when the inspection report is received. When Paragraph 13(a) is utilized as the benchmark for appropriate requests for repair, the home inspection becomes a tool for complete disclosure, rather than a dangerous weapon.

There is no perfect home and there has never been a perfect contract, inspection report or negotiated resolution to the home inspections findings. In the end it is a compromise. All parties must understand this very important fact from the beginning and work within the parameters that control these two very different documents. For the real estate agent, the offer to purchase and contract controls. For the Licensed Home Inspector, the NCHILB Standards of Practice control.

If all of the professionals who work with the buyers and sellers work to better understand and communicate the separate and distinct purposes of Paragraph 13(a) and the NCHILB mandates, maybe we can help keep the two parties in love "till closing do us part". Who knows? Maybe real estate agents will even fall in love with home inspectors (okay, maybe just appreciate them a little more)!