

The Real Estate Licensee's Duty to Inspect Residential Property

For what type of property is the visual inspection required?

Residential one to four and mobile homes. This includes transactions even when exempt from the TDS such as probate or REO. The visual inspection is not required on commercial, vacant land or 5+ residential property.

How does an agent conduct a visual inspection?

An agent must conduct a diligent visual inspection and disclose all facts materially affecting its value or desirability. Above all, the agent should identify "red flags" such as cracks, stains, discolorations, spots, peeling paint, popcorn ceilings, hillside netting and uneven or warping flooring.

Is an agent required to investigate inaccessible areas?

No. The inspection is limited to reasonably and normally accessible areas. There is no need to climb up hillsides, onto the roof or into the attic; move or look under or behind furniture or into cabinets; or open locked doors.

What are the rules of thumb for conducting a visual inspection?

- **Stick to facts.** Do not speculate or assume. For example, you may say, "green and black discoloration in bathroom #1." Do not say mold of the "toxic variety" (you don't know if it is toxic); or "surface mold" (you don't know how deeply it penetrates); or "easily cleaned" (you don't know exactly what remediation effort is necessary); or "caused by leak in the caulking" (you're not offering an opinion as to cause). In fact, it is better to not state "mold" at all. As an agent, you should not make the determination whether the subject property contains mold or asbestos or other environmental hazards.
- **Do not guess at the adequacy of repairs** such as saying the "repair work looks solid." (What if it turns out they aren't?). Stay away from loose language such as "no problems whatsoever" (obviously, there could be) and "remodeled all over" (Really? Was it truly remodeled everywhere?). Do not attempt to use the visual inspection for marketing or puffery. The house is already sold.
- **Stay away from adjectives for size or significance.** When identifying cracks, stains, paint damage, spots, et cetera..., do not attempt to quantify or otherwise describe size, significance or degree of a defect. For example, do not say "hair-line crack," "small crack," or "severe crack."
- **Do not endorse seller's statements.** Avoid saying "I agree with the seller's portion of the TDS" or make other remarks such as, "I do not see anything which contradicts seller's statements."