

Draft Bill on home defect disclosure needs more teeth

By  Ronald Ennik

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The proposed new legislation which requires estate agents to recommend a home inspection to all prospective buyers is a welcome step towards greater transparency in the buy/sell process. But it doesn't go far enough...



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The problem with the draft Property Practitioner's Bill (PPB) is that the home inspection clause is presented as a "should do" and not a "must do" - and, as long as it remains a recommendation, it will provide a loophole for unethical sellers to hide the damp behind the wallpaper.

What is clearly needed is a clause that makes the home inspection compulsory - and, hopefully, that will be so by the time the draft Bill becomes law.

Only then will South Africa step into line with international best practice in residential property markets. And only then will buyers in our market have true peace of mind when signing an offer to purchase.

In contrast with South Africa at present, pre-sale professional inspections and reports on homes (by licensed inspectors) have become mandatory, and closely regulated, in many states and provinces of developed countries worldwide.

'Defect list' is imperfect

For the time being, estate agents in South Africa will inevitably persist with the current (informal) practice of requiring sellers to sign a defect list prior to putting a home on the market.

Unfortunately, it remains an imperfect system that not only allows unscrupulous sellers to conceal known defects but also puts buyers under the illusion that they are experiencing true transparency.

Another benefit of the proposed new legislation is that it will deliver long-awaited statutory regulation to the home inspection sector by ensuring that inspections are carried out by qualified inspectors who know their business.

This not only ensures upfront, unbiased, professional disclosure of any material defects but also takes bogus, or fly-by-night inspectors out of the equation - thus reducing the risk at both the buy and sell ends.

ABOUT RONALD ENNIK

Ronald Ennik is the founder and CEO of Ennik Estates.

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