

CHECKLIST: PRIVATE WATER SUPPLIES DUE DILIGENCE REPRESENTING SELLERS

Given the importance of water-related concerns and possible issues sellers may encounter in rural residential transactions, the following checklist identifies many of the due diligence activities real estate professionals should undertake when representing sellers of rural residential properties with a private water supply. It is not an exhaustive list of all matters related to private water supplies in a transaction, but is provided to assist real estate professionals address some of the more common water issues they may experience in their practice.

WHEN REPRESENTING SELLERS	Done
<p>Confirm with seller source(s) and type of private water supply</p> <ul style="list-style-type: none"> • Explain to seller how private water supply affects transaction <ul style="list-style-type: none"> – Marketability of property – Value of property – Sale price of property – Present and future use of property • Explain to seller concerns buyers have with private water supplies 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Explain material latent defects and seller’s disclosure requirements</p> <ul style="list-style-type: none"> • Advise seller of legal obligation to disclose material latent defects • Advise seller failure to disclose may result in buyer commencing legal action once defects discovered • Educate seller on following water-related issues that may constitute material latent defects: <ul style="list-style-type: none"> – Water quality/potability – Water quantity – Location of private water supply relative to required setback distances from possible contamination sources – Well(s) in pits not upgraded or eliminated according to Alberta legislation – Abandoned wells not sealed and plugged according to Alberta legislation – Flooding incidents or other contaminants affecting private water supply 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Inquire if material latent defects exist</p> <ul style="list-style-type: none"> • Have seller acknowledge in writing if they’re aware of any material latent defects <p>If material latent defects exist:</p> <ul style="list-style-type: none"> • Obtain further information and supporting documentation about: <ul style="list-style-type: none"> – Nature of defects – How defects discovered – When defects discovered – Remedial measures taken to minimize defects – Remedial measures not taken • Make disclosure to buyers or their real estate professionals before offer to purchase accepted 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

WHEN REPRESENTING SELLERS	Done
<ul style="list-style-type: none"> • Ensure information conveyed to buyers or their real estate professionals is accurate and complete 	<input type="checkbox"/>
<p>Inquire if any material latent defects have been remedied</p> <ul style="list-style-type: none"> • Advise seller there's no legal obligation to disclose remediated material latent defects • Advise seller of advantages/disadvantages of disclosing this information <p>If unsure whether or not material latent defect remedied:</p> <ul style="list-style-type: none"> • Request proof of remedial measures taken by seller • Compare remedial measures taken by seller to established objective standard <p>If no objective remediation standard exists or if still unsure whether or not material latent defects remedied:</p> <ul style="list-style-type: none"> • Seek advice from broker • Advise seller to seek legal counsel or expert advice 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Gather water-related information and documentation from seller</p> <ul style="list-style-type: none"> • Discuss with seller advantages/disadvantages of having water-related information available for buyers' review <p>If water-related information available:</p> <ul style="list-style-type: none"> • Obtain following documentation from seller: <ul style="list-style-type: none"> – Well drilling report, if applicable. This report may be obtained from Alberta Water Well Information Database, www.aep.alberta.ca – Well inspection reports, if applicable – Well maintenance and service records – Water quantity/performance test results, if available – Water quality test results, if available – Water cooperative costs, fees, restrictions, if applicable – Invoices and/or receipts for purchases related to private water system – Warranties for water system, components, treatment devices <p>If water-related information not available:</p> <ul style="list-style-type: none"> • Discuss with seller advantages/disadvantages of well inspection by certified water well driller to determine current status of well, if well is source of water supply • Discuss with seller advantages/disadvantages of water quality tests conducted on private water system • Discuss with seller advantages/disadvantages of water quantity/performance tests conducted on private water system 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Inquire if water treatment devices installed</p> <ul style="list-style-type: none"> • Confirm type of treatment device(s) and purpose(s) • Confirm to what NSF/ANSI standard device is certified • Obtain product/operating manuals, maintenance and service records, if available 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Inquire if restrictions on water use</p> <ul style="list-style-type: none"> • Ask seller of any issues with water supply/quantity • Ask seller if water licence exists <p>If water licence exists:</p> <ul style="list-style-type: none"> • Confirm with seller if water rights will transfer/not transfer to buyer 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

WHEN REPRESENTING SELLERS	Done
<ul style="list-style-type: none"> • Disclose information on how water rights will be handled to buyers or their real estate professionals before offer to purchase accepted • Ensure information on water rights is accurately represented in buyer's offer to purchase <p>If well shared with other property owners:</p> <ul style="list-style-type: none"> • Obtain well sharing agreement, if available <p>If no well sharing agreement exists:</p> <ul style="list-style-type: none"> • Discuss with seller advantages/disadvantages of entering into well sharing agreement • Disclose information about shared well to buyers or their real estate professionals before offer to purchase accepted 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Verify seller's representations</p> <ul style="list-style-type: none"> • Secure any seller representations in writing to eliminate confusion as to items discussed • Disclose sourced information in any property-related communications <p>If accuracy or completeness of information provided by seller is in doubt:</p> <ul style="list-style-type: none"> • Make additional inquiries of seller or other sources <p>If instructed by seller not to disclose material latent defects:</p> <ul style="list-style-type: none"> • Remind seller of legal obligation to disclose this information • Advise seller failure to disclose may result in buyer commencing legal action once defects discovered <p>If seller insists to not disclose material latent defects:</p> <ul style="list-style-type: none"> • Cease representing seller <p>If seller insists material latent defects have been remedied but cannot provide proof:</p> <ul style="list-style-type: none"> • Seek advice from broker 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p>Advise seller of option to obtain legal counsel or expert advice</p> <ul style="list-style-type: none"> • Advise seller to ensure expert discusses with seller implications of reports, records, test results, agreements being reviewed 	<input type="checkbox"/> <input type="checkbox"/>
<p>Document activities for brokerage file</p> <ul style="list-style-type: none"> • Document in writing the following <ul style="list-style-type: none"> – Information received from/conveyed to seller – Advantages/disadvantages with seller – Seller's decisions, instructions, actions 	<input type="checkbox"/> <input type="checkbox"/>
<p>Provide brokerage all trade and water-related documents for its records</p>	<input type="checkbox"/>