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# The Quill – October 2021

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QUILL



**earlier.org**  
Friends for an  
Earlier Breast Cancer Test®

OCTOBER

is Breast  
Cancer Awareness  
Month. We are  
joining the fight and  
so can you!

As many of you are aware, October is Breast Cancer Awareness Month. I would venture to say that most of us have known someone affected by breast cancer or have been touched personally in one way, shape or form. For the past 7 years we have partnered with an inspiring local organization out of Greensboro called Earlier.org. Their mission is focused solely on discovering a biological test for early detection in order to reduce and prevent invasive surgery, minimize treatment, and dramatically increase survival rates.

With your assistance, Barristers has donated nearly \$50,000 over the years to this amazing charity and we thank you in advance for giving us a Helping Hand this October. For the entire month we will donate a portion of each title Order that we receive to Earlier.org. The more Orders we receive, the more money we will donate, thereby allowing you to make an impact in the process.

Please take a minute and click [HERE](#) to see how this organization plays a role in early detection of this disease. And click [HERE](#) to read some inspiring stories of hope! (Click on each person's photo to read their story).

## THE QUILL ARTICLE

Does This House Have Ghosts?:

What do sellers have to disclose?

It's October (how did that happen???) and, as everyone knows, this is the month for ghouls, ghosts, goblins and "paranormal activities." So, that got me pondering. . .Is there a duty to disclose certain things by a seller to a buyer. Let me illustrate the issue with a real world example.

It's the Summer of 2005 and a very tired solo practitioner named Sal Balsamo is in his conference room reviewing a file for an upcoming closing. It was my practice to take some time to review the settlement sheet and make sure that all of the liens that needed to be paid off were accounted for on the Settlement Sheet. In this particular case, I had a few extra minutes and started reviewing the title notes. I came across a death certificate and realized that the owner of the property was deceased. As I perused the death certificate, I noticed that the listed cause of death was "Self-inflicted shotgun blast to the chest." Wow. . ., I thought to myself. "The owner committed suicide. How awful." I continued my review when the Buyer's Agent entered the conference room. She and I began conversing and engaging in some chit chat, when she said something like, "Isn't it so sad that the property owner in this transaction died." "Yes", I said. "Very sad." "And he was such a young man, too", she said. "Yes", I said. "Very sad." "And he left behind such young children." "Yes", I said. "Very sad." "It's just so sad that a man of his relatively young age would die of a heart attack.", she said. "Yes", I said. "Very sad. Wait. . .what did you just say?!?!?!?" I showed her the death certificate and as you might expect from a real estate agent. . .she completely freaked out! I remember her saying, "Oh my God. What if he killed

himself in the house? I have to tell my Buyer.” And then she walked out leaving me alone in the conference room with this question on my mind.

“Does the Seller have an obligation to tell the Buyer that a death occurred in the house that is for sale?”



Believe it or not, there is a statute in North Carolina that gives us the answer. NCGS § 39-50 tells us:

§ 39-50. Death, illness, or conviction of certain crimes is not a material fact. In offering real property for sale it shall not be deemed a material fact that the real property was occupied previously by a person who died or had a serious illness while occupying the property or that a person convicted of any crime for which registration is required by Article 27A of Chapter 14 of the General Statutes occupies, occupied, or resides near the property; provided, however, that no seller may knowingly make a false statement regarding any such fact. (1989, c. 592, s. 1; 1998-212, s. 17.16A(a).)

So. . .there you have it. What other things must be disclosed pursuant to North Carolina law:

#### Duty to Disclose:

In North Carolina, Brokers/Sellers must disclose the following:

1. Health and Safety Issues – like lead-based paint, asbestos, toxic mold, radon and even that the house was formerly used as a Meth lab.
2. Oil and Gas Rights – if said rights had been previously severed by the seller
3. Future Construction Projects or Pending Community Litigation
4. Known Defects, Seen or Unseen – like standing water, termites or cracks in the foundation
5. HOA Dues or Assessments
6. Neighborhood “Nuisances” – like noises, odors or smoke from nearby commercial, industrial or military sources

#### No Duty to Disclose:

1. Death
2. Square Footage – but if the seller lists square footage, it must be accurate
3. Fire History – as long as the home was remodeled or repaired consistent with Code
4. Missing items – like kitchen appliances, air conditioning or heating – Caveat Emptor!

5. Sex Offenders – since this information is available through an online Registry
6. Financial State of the Seller
7. A Seller does not have to disclose if they believe a house is “haunted”

Along those lines, and in the spirit of Halloween, All Soul’s Day and Dia de los Muertos. . .did someone say “HAUNTED?!?!?!?”



I know that as real estate professionals, after you watched the movie “Poltergeist”, you asked yourself, “Now. . .if they wanted to sell this house, would they have to tell the buyers about all of the ghosts???”

One of the most infamous “haunted house” cases occurred in New York state (*Stambovsky s. Ackley.*) In that case, the Seller repeatedly told members of the media and neighbors that her house was haunted. The seller also gave tours of her ghost-ridden house. However, when she sold her house to the buyer, she failed to mention anything about ghosts (Hhhmmm. . .imagine that.) When the Buyer was informed by neighbors that the seller considered the home to be haunted, he was none too pleased and asked for the contract to be rescinded. When the seller refused, a lawsuit ensued. The Trial Court ruled in favor of the seller on the grounds of Caveat Emptor, but the Appellate Court reversed. In doing so, the Appellate Court noted that the fact that the house was “haunted” had the potential to impact the value of the home and its potential for resale, regardless of whether or not the home was actually haunted. The Appellate Court stated “the most meticulous inspection and search would not reveal the presence of poltergeists at the premises or unearth the property’s ghoulish reputation in the community”. Consequently, the Seller could not legally deny the existence of the house’s ghoulish reputation. The Court concluded, “when a condition which has been created by the seller materially impairs the value of the contract and is peculiarly within the knowledge of the seller or unlikely to be discovered by a prudent purchaser exercising due care with respect to the subject transaction, nondisclosure constitutes a basis for rescission as a matter of equity.” New York is one of a handful of States that recognizes the concept of “stigmatized property.” Stigmatized property includes the death of an occupant or a belief that the house is haunted. In these states, there is a duty to disclose imposed on the Seller. North Carolina has no such obligation. (Source: Hutchens Law Blog – 2019)

In those States that require disclosure of “stigmatized properties” the disclosure is, shall we say. . .nuanced. In Virginia, for example, a friendly (or unfriendly, as the case may be) ghost wandering the halls need not be disclosed. However, bloody handprints that cannot be washed off the walls or lights that inexplicably turn on and off at 3:15am every morning are “defects” that require disclosure. In Texas, property owners do not have to disclose non-violent or accidental deaths, but one or more

violent deaths, like...I dunno...a chainsaw massacre...would require disclosure. California requires disclosure, but only if the “defect” has occurred in the past five years. So, the murder-suicide of a Hollywood starlet and her lover in the 1920s would not need to be disclosed, but the fact that black cat walks through the bedroom walls every full moon would have to be disclosed. (Source: Lindley Law Blog – 2016)

Back to our intrepid young attorney in 2005. The Buyer’s Agent and I took the Buyer into my office and told her about the Seller and the fact that he may have killed himself in the house she was about to purchase. Our mutual client burst into tears and ran out of my office. Thirty minutes later she returned and told us that she was ready to move forward. Turns out that she had a daughter who had died a few years back and in her mind her daughter’s death and the seller’s death were somehow tied together in a positive way. After some discussion, the Agent and I determined that the Seller did not have an obligation to tell the Buyer anything concerning the property owner’s death. However, the Sellers – and particularly their Agent – did have an obligation to be truthful and telling the Buyer that the owner “died of a heart attack” was not exactly truthful.

Happy Halloween everybody!

sb

## MEET THE FAMILY

{Ashley Storms}

Ashley is the newest member of our Customer Care Team. If you recognize her last name, that’s because she is the sister of our very own Tiffany Storms who is on our Underwriting Team.



Ashley’s favorite sporting event to watch is the Tour de France. In her free time, she enjoys reading, particularly Sherlock Holmes novels. And when she is not watching the Weather Channel, she is spoiling her two cats, Winter and Snow. Be sure to say hello next time she answers your phone call!



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on the move again!

Our convenient canvas pouch hit the road (or should we say sea) on a cruise this summer with Ashley Lyons of Gregory Matthews' office. Email [Summer](#) to show us your BT swag and to be featured in an upcoming issue of The Quill!



When you're really excited about  
Halloween but you're trying to  
maintain a high level of professionalism



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