

# Is it smart to buy or sell home 'as is'?

## Sellers should not expect to fetch top dollar on sale

Exactly what does an "as is" home sale mean? I'm often asked that question. The answer is surprisingly simple.

An "as is" home sale means the house or condo seller refuses to pay for any repairs of defects in the residence. In states that require home sellers to disclose known defects, an "as is" sale is not a way to evade the seller's obligation to tell the buyer about problems with the property.

Some real estate agents recommend their home sellers sell "as is." Their primary reason is that the seller is not obligated to pay for repairs for disclosed defects or for defects the buyer later discovers even though the seller didn't know about them.

For example, suppose an "as is" home seller discloses the roof leaked around the chimney, but the flashing was repaired and it hasn't leaked since. However, shortly after the home buyer moves in, during a heavy rain the roof leaks around the chimney. Is the seller obligated to pay for repairs? No, because it was an "as is" sale and the seller disclosed the prior leaks and repairs.

**WHICH HOME SELLERS SHOULD SELL "AS IS."** Many house and condo sellers should sell "as is." Included are sellers who have not recently lived in the residence so they are not aware of its current defects, if any.

Another large group of residence "as is" sellers are those who either cannot afford to make necessary repairs or who don't want to go through the inconvenience.

Other home sellers who should consider "as is" sales are estate heirs who are unfamiliar with the property, lenders who foreclosed on the property, owners of "fix up houses" and rental property investors whose tenants let the property get into run-down condition.

However, home sellers who want to earn top dollar for their houses and condos usually should not sell "as is" because of the stigma attached by buyers to "as is" sales. To illustrate, if you see a home is being sold "as is," in the minds of prospective buyers that usually indicates there is something wrong with the house.

**WHO SHOULD BUY AN "AS IS" HOUSE OR CONDO?** In a nutshell, the prime reasons some home sellers sell "as is" are (1) they can't afford or don't want to make home repairs before the sale and/or (2) the seller isn't capable of arranging for the repairs.

A surprisingly large number of home sellers decide to sell but don't want to fix-up their residences to get top dollar. Many elderly sellers fall into this category.

For example, when my parents sold their large house, they were anxious to move into a smaller rental apartment, which would be easier to maintain. They had no interest in painting their house and getting it into tip-top condition. As it turned out, the buyer completely remodeled the house so it was fortunate my parents didn't waste their time and money fixing up the house to their standards which weren't the same as the buyer's.

Individuals who should consider buying "as is" houses and condos are home buyers who don't

mind purchasing a residence which has profit potential in return for fix-up work.

Thanks to Internal Revenue Code 121, home buyers who own and live in their "as is" fix-up residence at least two of the five years before selling can claim up to \$250,000 tax-free resale profits (up to \$500,000 for a married couple filing jointly). This generous tax exemption can be used over and over without limit, but not more often than once every 24 months.

"AS IS" HOME BUYERS SHOULD INCLUDE INSPECTION CONTINGENCIES. Over the years, as an investor I've bought many "as is" houses. Only one turned out to be a "money pit." It was a foreclosure purchased from a major lender.

I should have realized it was such an incredible "as is" bargain, with super-easy financing, that I was being bamboozled. The realty agent who had the listing used the well-known sales tactic of saying, "If you don't make an offer today, there are other buyers eager to purchase this bargain." He said the lender-seller, in return for the easy financing, wouldn't allow a contingency in the purchase offer for any inspections. I fell for the bait.

However, later I discovered the "as is" house had extensive termite damage. I'm sure the realty agent and the seller-lender knew this. Fortunately, even after paying for necessary repairs, I earned a substantial resale profit, thanks primarily to a rising market and a good location.

Because of the extra risk, an "as is" house or condo purchase offer should include a contingency clause for a professional inspection, in addition to other customary inspections, such as for termites, energy efficiency, code compliance, etc.

To learn as much as possible about the "as is" home purchase, be sure to accompany your professional inspector. Many buyers fail to do so. I recommend hiring a member of the American Society of Home Inspectors (ASHI) because they have the toughest membership requirements. Local ASHI members can be found at [www.ashi.com](http://www.ashi.com) or 1-800-743-ASHI.

DON'T AUTOMATICALLY REJECT AN "AS IS" HOUSE OR CONDO. Just because a house or condo is listed for sale "as is," that doesn't mean something is seriously wrong with it.

Perhaps the seller just received bad advice from their listing agent. An "as is" listing will limit the number of potential serious buyers inspecting that home so sellers should understand the possible adverse consequences before listing "as is."

Instead, I recommend home sellers have a professional inspection made before listing the home for sale and make any affordable repairs recommended by the inspector so the home is not offered for sale "as is."

Buyers of "as is" homes can often drive hard bargains, especially if the residence has been listed for sale several months and there is little or no competition from other buyers. However, buyers of "as is" homes should be extra-cautious and include inspection contingencies to guard against purchasing an undesirable residence with hidden defects.

With adequate inspection contingencies, an "as is" home purchase will often turn out to be extremely profitable for the buyer who understands what they are buying.

CONCLUSION. An "as is" home sale means the seller will not pay for any repairs. But it does not give the seller the right to conceal known defects, which must still be disclosed to prospective buyers.

However, "as is" home buyers should be aware such a purchase can be an incredible bargain if the buyer's purchase offer contains a professional inspection contingency clause and the inspector doesn't discover any serious undisclosed defects. For more details on "as is" home sale, please consult a local real estate attorney.