



## **DO YOU REALLY KNOW WHAT “SOLD AS IS MEANS”?**

**By Barbara Nichols, Realtor / Contractor**

Most standard real estate contracts for existing construction sales now have a clause included, which states that the property is sold “as is.” In questioning both buyers and sellers, and real estate sales agents, it is apparent that there exists some confusion regarding this term.

When a contract is signed by a buyer and seller, which includes the “as is” clause, this means that at the time of signing it is the seller’s desire not to repair, or credit the buyer any funds, for any defects the buyer may find in the property through the process of their inspections, or investigations. The buyer agrees to the “as is” clause, but usually has the contingency to inspect the property for defects, and the right to withdraw from the transaction if those defects are of a number, or type, or cost to repair, the buyer deems to be unsatisfactory. The “as is” clause in no way limits the right of the buyer to determine what the “as is” is, through their diligent inspection of the property. It is strongly recommended that no buyer eliminate their inspection right contingency in a real estate purchase. The “as is” clause does not reduce, or eliminate, the duty of the seller or agents to fully disclose all property defects, and other material facts, of which they may be aware.

A contract is an agreement between the parties, which can be changed by further agreement between the parties. Should the buyer discover significant defects in their inspection process, either unknown to the seller or agents, or more significant and costly to repair, than previously believed; they have every right to request credits toward those repairs, or that the repairs be made by the seller. Because of the “as is” clause, the seller has the right to say that they will not give credits, or make repairs, and that the buyer may withdraw from the transaction if this is not acceptable to the buyer. However, the seller may now have new information on his property’s condition he did not have before, and this new information must be disclosed to the next prospective buyer. The usual result of this situation, is that the buyer and seller agree to some credits, or some repairs, through further negotiation, and thereby change the agreement, in spite of the prior “as is” clause. Although in hot markets, with multiple offers, the buyer may have to accept the property “as is,” or cancel the transaction and look for another property.