

January 28, 2021

RE: Senate Testimony - ND SB2247 – Property Disclosure Requirements

Chairman Burckhard and Members of the Senate Political Subdivision Committee, my name is Gloria Palm Connor. I am currently serving on the Board of Directors for the North Dakota Association of Realtors and the Fargo-Moorhead Areas Association of Realtors Board of Directors. I am the broker and co-owner of Beyond Realty in Fargo.

I am testifying in support of the ND Senate Bill 2247 to amend and reenact section 47-10-02.1 of the North Dakota Century Code relating to Seller property disclosure requirements.

Based on North Dakota Case Law, the requirement for sellers to disclose material defects, has been on the books for over 35-years. The North Dakota Supreme Court set the standard for disclosure by the seller of real property in a court decision in the case Holcomb v. Zinke in 1985. In that case, the Court declared “a duty on the seller to disclosure material facts which are known or should be known to the seller and which would not be discoverable by the buyer’s exercise of ordinary care and diligence.”

It is of my opinion, and the opinion of many others in the real estate industry, that the current ND Century Code 47-10-02.1 confuses consumers, as buyers and sellers of real property. It infers sellers do not need to disclose material facts regarding their property if it is not their primary residence or if a real estate professional is not involved in the transaction. I contend that all sellers of residential real property (1-4 units) should be required to disclose material facts to buyers in the sale of their residential real estate. I believe current ND Century Code 47-10-02.1 is in direct conflict with the North Dakota Supreme Court ruling in the case of Holcomb v. Zinke.

I believe based on the current ND Century Code 47-10-02.1 real estate professionals may misinform their clients and sellers may misinterpret the current Century Code that if a real estate professional is not involved in the sale or it is not the seller’s primary residence, a disclosure of known material facts is not required. The proposed change in the language to Century Code helps to close a loophole in protecting the rights of buyers and reduces the potential liability of sellers.

Failure of a seller to disclose material facts or meet the requirement of the ND disclosure law should be enforced, like all other laws of the state, by the North Dakota judicial system should a buyer seek punitive damages due to a seller’s nondisclosure. I believe the proposed changes help to define a seller’s obligation to disclose material facts regarding the transfer of residential real property and gives the Courts a more definitive directive when determining liability if a case is brought before them.

The current North Dakota seller disclosure law does not protect all consumers and is confusing to many. I have confidence, if enacted into law, the proposed bill will better protect all consumers in the transfer of residential real property.

I would like to thank Chairman Burckhard and the Members of the committee for their time in hearing and considering my testimony.

Sincerely,

A handwritten signature in cursive script that reads "Gloria Palm Connor". The signature is written in black ink and is positioned above the typed name.

Gloria Palm Connor, President/Broker

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