

GROW OPS



What REALTORS® Need to Know

CREA

The Canadian Real Estate Association

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Toronto Police Services officer dismantles a grow op.

ABOUT MARIJUANA GROW OPS

A grow op is any building that has been leased or bought by persons in the drug trade and turned into an indoor nursery or hydroponics operation to grow marijuana plants. A grow house is any grow op located in residential buildings. Police estimate that there are more than 50,000 active grow ops in Canada today. This number continues to increase.

No community is immune from marijuana grow operations. They operate in virtually every province and territory in Canada. They operate in our largest urban centres and in our smallest rural communities. The majority are found in residential neighborhoods, but grow ops have also been discovered in warehouses and commercial buildings. In large cities, police sometimes find a number of indoor grow operations in the same neighborhood — even on the same street.

Operators are becoming increasingly sophisticated. In order to prevent detection, efforts are made to make the building housing the grow op look lived in. Sometimes families live in the homes as "crop sitters", while interior lights are placed on timers in other grow ops to make it appear lived in. While some grow operations take place in rented units, police have detected a growing trend towards owned single-detached houses where there is less likelihood of being discovered. Police have recently found new homes that have been built with special containment units for growing marijuana that are designed to prevent the spread of moulds and pesticides.

Grow operations range in size. They can be as small as a few plants in a one-room basement or as large as an entire barn or warehouse with more than 10,000 plants. The largest marijuana grow operation in Canadian history was found at the former site of the Molson Brewery in Barrie, Ontario in January 2004. More than 25,000 plants worth an estimated street value of \$30 million were found when police raided the site. This "factory" is not typical of grow operations in Canada.

While the size of that industry has shown a slow but steady increase in some provinces, police say the problem is reaching epidemic proportions in other parts of the country — especially in British Columbia, Ontario and Quebec. There are regional differences to these operations — more than 70 per cent of grow operations are located indoors in B.C., while only about 60 per cent of grow operations in Quebec are located outdoors.

Marijuana cultivation has become popular over the years due to its high profitability. The low risk and relatively lenient sentences continue to entice growers. Grow operations are becoming major businesses. Small independent grow operations are gradually being taken over by large international criminal enterprises. With a comparatively small initial investment, the grower stands to reap profits of well over one million dollars within the first year for an operation that produces a few hundred plants of high quality marijuana every two to three months. Marijuana is by far the most popular and widely available illicit drug in Canada, and law enforcement agencies believe it is unlikely that the current trend will change in the near future.

RCMP requests grow op registry

RCMP in British Columbia have asked the federal government for permission to set up a web site to list addresses where grow ops and methamphetamine labs have been dismantled. The request was made in late 2004.

The web site would ideally be available to the public and would act as a kind of "buyer beware" for potential homeowners, according to Inspector Paul Nadeau who is in charge of the province's Marijuana Enforcement Team. Home shoppers would then have to follow up with city hall to ensure the contaminated house had been cleaned up and inspected.

At the time of publication, the federal government was considering the request, and the federal justice department was developing a legal opinion on privacy issues surrounding the creation of such a web site.



Many grow ops are located in residential basements.



Neighbors bust Calgary grow ops

Two separate marijuana grow operations were discovered on November 21st 2004 after Calgary residents alerted police to strange activity on their streets.

Police believe the homes were being raided in "grow rips" where rival gangs attempt to steal other groups' marijuana. The operations were worth a combined street value of \$2 billion.

The first home contained a grow op with 1,213 plants. Police said the drugs could have been sold on the street for around \$1.5 million. The second was an upscale home that neighbors believed had been broken into. About 625 marijuana plants were found. No one was home when police raided the homes.

Just two weeks later, police raided one of the largest marijuana grow operations in Calgary's history. Nearly 2,000 plants worth an estimated \$2.4 million were taken from a home on December 6th 2004.

The largest single-home operation uncovered to date in Calgary was a grow op worth \$3 million grow op in the city's northwest in December 2003 that contained about 2,100 plants.

WHY REALTORS SHOULD CARE

The rapid increase in the number of grow operations across Canada has raised questions about the disclosure responsibilities and potential liabilities of real estate practitioners in dealing with these properties — as listing agents, buyer agents, dual agents and property managers. A separate issue has arisen concerning the ability of real estate Boards to publish the addresses of known grow ops.

Grow Ops: What REALTORS® Need to Know provides the tools you need to understand the issues surrounding marijuana grow ops and how to protect yourself and your clients. This booklet will help you to recognize situations where grow ops may be involved and provides recommendations on how to deal with them. The legal issues section, containing guidelines for REALTORS, can be found on page 8 of this book. At the time of publication, REALTORS in British Columbia had unique legal disclosure requirements, which are outlined in the legal issues section.

COMMUNITY IMPACT

In addition to liability issues for REALTORS®, marijuana grow ops pose a significant cost and risk to public safety in the communities where we live and work.

Indoor marijuana grow operations require massive amounts of water and hydro. In order to prevent detection, growers redirect the systems that bring these services into the house and tamper with the meters that measure consumption. The cost to cover the higher consumption of electricity and water is passed along to all consumers. In some areas, it is estimated that each indoor marijuana grow operation uses an average of \$15,000 per year in hydro that is not paid for by the user.

Diverting electricity and tampering with electrical wiring can lead to house fires. The use of extra exhaust fans in the grow operation can accelerate the fire increasing the hazard. This hazard extends to surrounding homes in the neighborhood. In some jurisdictions, one in eight emergency calls reporting a fire involves a grow op.

The re-venting of the furnace to circulate the air to feed the marijuana plants can circulate exhaust fumes from the furnace back into the house. There can be a build up of poisonous gases from the chemical nutrients used in the production of the marijuana crop. These poisonous gases are also vented outside and released into the neighborhood. The combination of solvents and oxygen from the exhaust fans can cause an explosion.

These illegal operations can bring criminals, weapons and violence into our neighborhoods. Growers sometimes arm themselves to protect themselves and their operation. In British Columbia, RCMP figures show that one in eight homicides is related to the marijuana grow industry. There is increasing evidence of kidnappings, extortion and home invasions linked to the marijuana grow industry.



DAMAGE CAUSED BY GROW OPS

To grow a hydroponic marijuana crop indoors, a number of "renovations" to the property may be required. These renovations have the potential to cause defects to the structure housing the grow operation. Repairs can cost several thousand dollars, and in extreme cases, the house has to be completely torn down. National remediation guidelines for grow ops are being developed by Canada Mortgage and Housing Corporation, and should be available in 2006.

Large amounts of water are required to grow a marijuana crop. A custom hook-up in the basement is often installed. Growers need some form of ventilation to handle the excess moisture generated. This may require modifications to the drain system, or venting through the roof. The moist air is pumped through vents or pipes running up to holes in the ceiling.

The large amounts of moisture required to grow indoors can generate a considerable amount of mould and spores. There are a number of noxious gases that develop in the process. It's also not unusual to find that pesticides have been used on the crops. Toxic contaminants can remain in the air even after a grow op has been vacated. Exposure to indoor mould has been associated with exacerbation of asthma in mould sensitive people, and with increased upper respiratory disease.

An enormous amount of power is required to run a marijuana grow operation. Illegal cables are hooked up to the power source for the house, drawing far more power than a transformer is intended to provide. The lines are often cut to the power meter to prevent the police and hydro companies from identifying the dwelling as a grow op.

Uncovered electrical wires outside the house near the power meter are capable of killing someone who accidentally steps on them. Operators are generally not concerned with meeting electrical standards, and improperly connected cables create fire hazards. Heavy power usage wears out the transformers prematurely, which can result in fires months or years down the road.

The foundation is often compromised in some way so that the hydro can be hooked up behind the meter. Wiring and lighting are modified, overloading electrical systems and making the houses hazardous to entire neighborhoods.

These damages are of concern to the insurance industry. According to the Insurance Bureau of Canada, the average claim to repair the damage caused to a grow op is \$41,000. Insurance companies take the view that illegal acts should not result in a damage payment or policy coverage. Many insurance companies have policy clauses that will not cover this type of damage. Persons renting properties need to be aware of what is happening in their units in order to protect their assets.

Grow op in Toronto highrise

On March 7th 2004, police discovered a marijuana grow operation in a Toronto apartment building. The grow op was located in eight apartments in two west-end highrises. About 800 marijuana plants — some two meters tall — were seized.

According to police, the apartments were connected with a sophisticated wiring, irrigation and exhaust system. The apartments were located directly above and below each other, and were linked by hundreds and hundreds of feet of electrical wire.

"These buildings have kids on every single floor," said Detective Howie Page. "The apartments were entirely filled with mould and were all dangerously set up with hydro."

More that \$150,000 in structural damage was caused. Mothballs and air fresheners had been hung near exhaust fans to help mask the fumes.



Modifications to electrical wiring can create a fire hazard.



Large Winnipeg grow op discovered

One of Manitoba's largest grow ops was discovered just two blocks from Winnipeg's downtown police headquarters. Police raided the site on December 2nd 2004.

Winnipeg officers seized nearly 5,600 marijuana plants from a non-descript inner-city warehouse, with a potential street value of \$6 million.

The building where the discovery was made was being leased. No arrests were made on the day of the raid.

IDENTIFYING A FORMER GROW OP

Never assume the location is too bizarre or inconvenient to be a grow op. Police have found grow operations in new housing developments, in large and small homes, in basements and attics, in high-rise apartments and warehouses, and in outbuildings. Marijuana grow operations have even been discovered in vehicles like tractor-trailers, campers, motor homes and railroad cars.

In one Montreal raid, a grower used his own basement but tapped the electricity from the adjacent garage of his neighbor. In another, police discovered that every second new house on a street in a new subdivision had been converted into grow ops — six houses in all. Police have noted an increasing sophistication in illegal operations.

Grow ops often require extensive cleanup and repair. It is possible that these repairs were never made and the real damage is hidden. Noticeable signs that you may be dealing with a former grow op include:

- Mould in corners where the walls and ceilings meet.
- Signs of roof vents.
- Painted concrete floors in the basement, with circular marks of where pots once were.
- Evidence of tampering with the electric meter (damaged or broken seals) or the ground around it.
- Unusual or modified wiring on the exterior of the house.
- Brownish stains around the soffit that bleeds down along the siding.
- Concrete masonry patches, or alterations on the inside of the garage.
- Patterns of screw holes on the walls.
- Alteration of fire places.
- Denting on front doors (from police ramming the door).



Moisture from grow ops can cause structural damage.



Marijuana seedlings grow under halogen lights.

IDENTIFYING A GROW OPERATION

There are a number of signs that a building may be used as a marijuana grow operation.

- Buyer or tenant unloads unrecognizable equipment and very few household furnishings.
- Buyer or tenant unloads copper and/or PVC pipe, soil, halogen lamps, large amounts of black plastic aluminum ducting, and fans.
- Tenants come and go at unusual hours but never seem to stay overnight.
- Little or no garbage is brought to the curb each week.
- Mail is rarely delivered to the house, and the mailbox may be taped shut.
- Windows are always dark and may be secured with metal bars, blacked out or heavily draped.
- A strong odor similar to skunk cabbage (bulk marijuana) comes from the building.
- Power meter spins at a very high speed or signs of electrical tampering.
- Heavy condensation on the inside of the windows.
- Humming sound of fans or generators.
- Condensation or discoloring on the roof.
- Unusual amounts of steam coming from vents in the house in cold weather.
- Rooftop with no snow on it when the surrounding houses are covered in snow.
- Individuals arriving at the house to put out the garbage, move toys in the front yard, shovel the snow or cut the lawn and then leaving immediately.
- People entering and exiting the residence only through the garage keeping the garage door closed.
- Excessive security such as guard dogs, "keep out" signs, high fences, heavy chains and locks on gates.



Grow ops can be found in close proximity to each other, like these ones in Sainte-Marthe-sur-le-Lac, Québec.

Children removed from Courtenay home

Two young children were removed from a grow house in Courtenay, B.C. on November 17th 2004. Police seized 500 marijuana plants and growing equipment.

Two adults were arrested at the scene and faced charges of production of a controlled substance and possession for the purpose of trafficking.

The city deemed the building uninhabitable.



Toxic chemicals and fertilizers can enhance plant growth.



IDENTIFYING POTENTIAL GROW OPERATORS

Anyone trying to set up a grow op needs to buy or rent real estate. What may seem like a reasonable request for a four-bedroom house with an unfinished basement in a quiet neighborhood may be just the right criteria a grower is looking for to start a crop. It's important to consider the whole picture when dealing with a client because anyone can be a potential suspect.

Tips for REALTORS®

Keep an eye out for the suspicious activity such as:

- Third party purchasers.
- Questionable income sources.
- No contract negotiation.
- Offers to pay in large amounts of cash.
- Multiple cash transactions.
- Multiple down payments on behalf of one individual.
- Secretiveness and no reasonable explanations.

Be aware of clients who are financing multiple homes, and switching between first and last names for different transactions. Look for a common thread. For example, do you recognize the same clients buying multiple homes in the same neighborhood?

Moncton grow ops busted

The RCMP arrested 16 people following a July 27th 2004 sting of marijuana grow houses in the Moncton area of New Brunswick.

The raid netted millions of dollars worth of marijuana from 14 upscale homes. More than 5,100 marijuana plants were seized in total, which represents more than 2.5 million marijuana joints. Production equipment, vehicles and tens of thousands of dollars were also seized.

At least 13 of the people arrested were from outside of the province and of Vietnamese descent. Their ages range between early twenties to late forties.



Air is circulated through PVC piping.



Hundreds of plants can be found in a single grow op.

Tips for Landlords and Property Managers

Your suspicions may also be raised if you're negotiating a lease for a private home. Ask yourself the following questions:

- Did the applicant check out every room?
- Did the applicant provide proper identification such as a passport or driver's licence?
- Have references been provided and do they check out?
- Did the applicant fill out the application on site?
- Does the applicant understand the terms of the lease agreement?
- Did the renter spend a lot of time viewing the breaker-boxes, wiring and plumbing fixtures?
- Will the applicant sign a lease with the following conditions?
 - No damage to premises.
 - No criminal activity on the premises.
 - Applicant will provide reasonable access to the landlord.
 - Maintain clean and tidy premises.
 - Criminal activity will result in immediate suspension of the lease.
 - No extra tenants without permission of the owner.
 - Exact number and names of the tenants who will be renting.
 - Allow inspection of the hot water tanks and furnace every two months.

Landlords and property managers need to be aware of the activities taking place on their premises. The police recommend the following monitoring activities for rented units:

- Let your neighbors know your property is being rented, and how to contact you if needed.
- Record the make, model, year and licence plate numbers of all tenant vehicles.
- Make sure your tenant knows you do regular internal and external inspections. Inform them verbally and in their lease agreement. Assure them you will give proper notice, as required by law.
- Require your tenant to carry insurance. Make sure you are a named party to prevent cancellation.
- Do not accept cash for rent. Insist on cheques whenever possible. It is recommended that you personally pick up the monthly rent cheque instead of accepting post-dated cheques.

Vancouver grow mansion discovered

Vancouver police discovered a marijuana grow operation in a mansion in one of the city's most exclusive west-end neighborhoods on February 5th 2003.

Acting on a tip from B.C. Hydro, officers raided the home and found about 500 plants in the basement. B.C Hydro estimates the home was stealing about 30,000 watts of electricity per month. The home is worth an estimated \$2 million.

The property was rented, and the owner lived in Taipei at the time of the bust. The owner's lawyer said his client was not aware that the tenants were running a grow op from his building. He estimated that repairs would top \$100,000.



Poisonous gases and oxygen combine to cause an explosion.



LEGAL ISSUES

REALTORS® must be as informed as possible in order to protect themselves and their clients from the various legal issues surrounding marijuana grow operations.

REPORTING A GROW OP

Members of the general public — including REALTORS® — should not put themselves into any compromising position while obtaining information about marijuana grow operations or other criminal activity.

If you suspect there is a grow op next to a property you are showing, call your local Crime Stoppers immediately. A marijuana production operation can destroy a residence in a matter of months. The longer it is in place, the more damage will be done.

If you've observed a number of the signs and suspect there is an indoor marijuana grow operation in your neighborhood, please contact your local police service or Crime Stoppers. You should be prepared to provide a description of the house and the reasons you believe it is the site of a grow operation.

DISCLOSURE ISSUES

The issue for REALTORS® is disclosure and education. REALTORS® need to know what the health and safety issues are after a grow op has been dismantled and be aware of the issues surrounding a grow op when it comes back on the resale market. REALTORS® need to know if any remedial action was taken to make sure that the house is safe.

Property managers, including real estate brokers, may be held liable for renting out houses that are converted to illegal operations.

Owners of a former grow op can face problems dealing with their insurance company and difficulties in selling the property since disclosure of the home's illegal past may be necessary. Buyers can also face problems, such as mould, in years following a transaction.

The issue of disclosure is not an easy one to resolve. The grow op may have been in operation for only a few weeks, in which case mould or moisture damage would be minimal. There is the issue of the legal rights of the accused — there may have been a police raid on a grow op, but disclosure in some cases can jeopardize the due legal process of the individual or individuals charged if you make public statements before conviction. The REALTOR® is the one caught in the middle in this transaction.

Property Disclosure Statements in British Columbia require sellers to indicate whether a property has been used as a marijuana grow operation or to manufacture illegal drugs. The residential form asks, "Are you aware if the premises or property have been used as a marijuana grow operation or to manufacture illegal drugs?" For strata title disclosure, the form asks the vendor if they are aware if the unit has been used as a marijuana grow operation or to manufacture illegal drugs. British Columbia is the only province where this requirement exists as of the date of publication, although some other jurisdictions may adopt similar requirements. Listing agents who have their sellers sign Property Disclosure Statements should ensure that their sellers realize they may be making disclosures in those statements that are not required by law to be made.

AGENT LIABILITY

There can be potential liability on an individual salesperson or broker involved in a transaction of a grow op, whether that involvement happened during the acquisition or the disposal of the property.

If it was a rental agreement, questions may arise over what the real estate salesperson did in qualifying the potential tenant if the owner of the property has relied on the help of the salesperson in screening potential tenants. If it turns out the tenant caused damage to the property, it could be suggested there was not sufficient qualification.

There may be some issues of responsibility and liability on the real estate professional.

- Did the salesperson or broker do their job in qualifying the tenant?
- Did the salesperson make reasonable effort to determine whether or not the property has been a grow op?

Care must be taken each time you are involved in the sale or lease of real estate. In addition to all the usual concerns about buying and selling a home, there is increasing grow op anxiety.

As a REALTOR[®], you take professional agency responsibilities very seriously. When working with clients to buy and sell properties, it's your duty to make reasonable efforts to discover the relevant facts about each property.

Disclosure by the seller and/or the listing agent may or may not be required, depending on the circumstances. See the Frequently Asked Questions section at the end of this booklet for more details.

If you have any questions about the implications of a grow op listing, it is recommended that you obtain legal advice.

LANDLORD LIABILITY

Some indoor grow operations are set up in leased single-family dwellings. In some cases, the growers actually live on the premises. Most of the time, they only drop by for a few hours at a time to tend the crop. The landlord is often unaware that their property is being used to grow marijuana until it is too late and the damages are painfully evident — mildew-covered basement, unapproved electrical wiring and structural deficiencies.

If the tenants used false identities — a common practice — the landlord has to bear the cost of the repairs. In instances where the power was diverted, the landlord can even be held liable for the electricity that was stolen. In Mississauga, Ontario in 2003, a landlord was ordered to reimburse \$26,000 to the hydro company for the electricity that had been stolen by his tenants.

Insurers are concerned about this trend and some have adopted or are considering stricter policy wordings designed to have property owners accountable for the maintenance of their property. The Investigative Services Division of the Insurance Bureau of Canada, the Canadian Bankers Association and various police agencies have developed protocols to share information to respond to the emerging problem.

Municipalities are beginning to enact tougher grow op bylaws. Some are holding landlords financially accountable for their marijuana-growing tenants. When a grow operation is found in some jurisdictions, landlords may be required to pay fines and for any costs associated with the bust incurred by police and fire departments. Landlords may also have to acquire re-occupancy permits to allow in order to rent the former grow op to new tenants.

GROW OPS AND MONEY LAUNDERING

Money laundering can be broadly defined as a process by which cash and other assets acquired through illegal activity are distributed in a way that hides the origin of the cash. Police have identified grow ops in Canada as a major avenue for money laundering because the cash from the crop can be used to purchase or access real property — often for the purpose of creating another grow op.

In a report published in March 2004, the Nathanson Center for the Study of Organized Crime found that drug trafficking represents the single largest source of criminal records in money laundering investigations in Canada. Of the money laundering cases studied for the report, 72.4 per cent involved some form of drug trafficking — and many of those involved grow ops.

In one of the money laundering cases cited in the report, a drug trafficker in B.C. admitted he owned 21 homes in the province that were all locations for grow ops. The houses were mortgaged through private financing arrangements, and they were rented out to individuals who were hired to oversee the grow ops in return for a percentage of the profits. Three of the properties were registered in the name of the man's wife, and seven others were registered to companies the man was a director of. The proceeds of crime investigation could not find one property actually registered to the convicted drug trafficker.

The Nathanson study said the proceeds of crime found their way into the real estate sector through mortgages, cash and "monetary instruments". A mortgage was used in 73.5 per cent of the money laundering cases involving real estate, and most of those mortgages went to buy properties used for grow ops. The report said that a real estate professional came into contact with the proceeds of crime in 38 per cent of the cases investigated. In the majority of cases examined, the reports said professionals including REALTORS® were innocently implicated because there was nothing obvious to indicate the transaction involved proceeds of crime.

Again, the REALTOR® may be "caught in the middle" and lead to the situation where you must comply with federal money laundering regulations or simply report a grow op to a local Crime Stoppers. If you are directly involved in a large cash transaction of \$10,000 or more, review the money laundering procedures your broker office should have in place. If you are suspicious about the conduct of an individual, or the ongoing safety of a home or commercial building, contact Crime Stoppers.



FREQUENTLY ASKED QUESTIONS FOR REALTORS®

1) As a listing agent, am I required to disclose to a customer buyer that a property housed a grow op?

Under the common law, the disclosure obligations of a listing agent are the same as those of the seller. If the seller is required to disclose, so too is the agent.

Sellers (and therefore listing agents) are obligated to disclose that a property was a grow op when:

- 1. There is an actual material latent defect of which the vendor knows or ought to know, or;*
- 2. The buyer asks a specific question or expresses a specific concern, or;*
- 3. The agreement of purchase and sale contains representations that the property was not used as a grow op or for criminal activities, or;*
- 4. There is some statutory or regulatory requirement that this disclosure be made.*

If none of the above criteria are met, there is likely no obligation to disclose the fact that the property was a grow op. Note, however, that provincial regulations and Codes of Ethics may impose a higher obligation of disclosure on a REALTOR®. Under these circumstances, it is important that the listing agent clearly explain to the sellers that while they may have no legal obligation to disclose, the listing agent does have such an obligation.

2) As a buyer agent, am I required to disclose to my buyer client that a property has been used as a grow op?

Yes. There is absolutely no question that you are responsible for making such a disclosure to a client. If you are a buyer agent and the property the buyer is looking at was, to your knowledge, used as a grow op, you have an absolute obligation to disclose that fact in accordance with your duty of full disclosure which is owed by any agent to a client. In fact, as part of your obligations as a buyer agent, you should take reasonable steps to ensure that the property has not been used as a grow op.

3) As a dual agent, do I have an obligation to disclose to my client buyer that my listing is or was a grow op?

Yes. If you are representing both the buyer and the seller as dual agent, you have an agency obligation to disclose all pertinent information to both parties. In this case, you must disclose to the buyer that the property has been used as a grow op. As the seller may have no such obligation in law, it is extremely important that sellers be made aware of this obligation before they agree to the dual agency.

4) As a buyer agent, how do I protect my buyer from inadvertently purchasing a property that was once used as a grow op?

A buyer agent should be aware that there may be no obligation on the part of sellers to voluntarily disclose that the property has been used as a grow op. Recognizing this fact, the buyer agent should be proactive in protecting the buyer by:

- a) Specifically inquiring of the listing agent or seller as to whether the property has been used as a grow op or for other criminal activities.*
- b) Specifically inquiring as to whether the sellers have knowledge of any defects — latent or patent.*
- c) Ensuring that the agreement of purchase and sale contains a representation on the part of the sellers that the property has not been used as a grow op or for criminal activities.*
- d) Recommending to their buyer that a building inspection be done.*

5) How do I disclose the information?

There is no standard or requirement for disclosure. The disclosure can be made orally. However, given the nature of the problem with grow ops, REALTORS® are encouraged to act in an extremely cautious manner by having disclosure documented. If a listing agent is actually going to indicate on the data input sheet that the property housed a grow op, he or she should first satisfy himself that this disclosure is required by law or regulation and should obtain consent for that disclosure from the seller. Otherwise, any disclosure required by law should be made before any agreement of purchase and sale is signed.

6) What are the legal consequences of selling a home without disclosing that it was once used as a grow op?

It may be that there is no obligation to disclose that the property was a grow op (see Dispatch 2003-06). That is the first area of inquiry a REALTOR® must undertake. There is, however, always an obligation to disclose material latent defects that are known or should be known by the seller. Both the seller and the listing REALTOR® (if they knew or ought to have known) could be liable for damages to the buyer for the costs of any necessary repairs to make the property fit for habitation. It must also be remembered that the standard of care imposed on real estate practitioners requires them to confirm information when the circumstances dictate. In some situations, REALTORS® may not be able to simply take the seller's word for the status of defects, and may be required to investigate further.

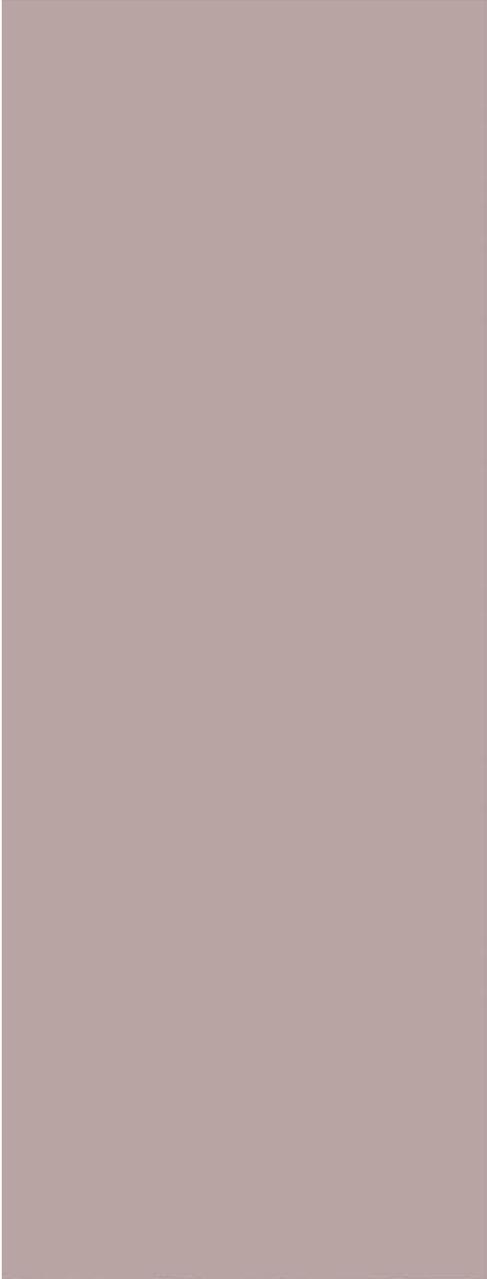
7) Should the address of a known former grow op be published by either the REALTOR or the Board?

No. Property addresses, insofar as they can be linked to a name, are personal information. Due to the ease of linking addresses to names, an address should generally be treated as an item of personal information. CREA's Privacy Code provides that personal information cannot be collected, used or disclosed without the consent of the owner of that information. Therefore, it would, in all likelihood, be inappropriate for real estate boards to be distributing this information. Furthermore, if grow op disclosure itself is not necessarily required by law, publishing addresses is unauthorized disclosure. Boards could be opening themselves up to litigation as a result of distributing this information.

8) Do grow ops lower the property value of neighboring houses?

This is a difficult question to answer with any degree of certainty. The question is whether or not a grow op constitutes a "stigma" which devalues the neighboring property. Grow ops do not devalue the property any more than any other house which was used for criminal activity. It does not appear that this is the type of stigma that would have any substantial effect on neighboring property. However, only time will tell.





Any questions or comments about the service or products CREA provides?
You can contact us on-line at info@crea.ca.

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