

"Send Me a Copy of the Warranty File"

A real estate agent called our warranty administrator and told her he had listed one of our homes. He went on to explain that he needed a copy of everything in the warranty file and he would be right over to pick that material up. When our administrator expressed some doubt as to whether or not she could do this, he made a big speech about disclosure laws and how we could get sued for hiding this information.

As the file was a substantial one (one of those "I'm not picky, but ..." homeowners), it took about fifteen minutes to reproduce the file. Several questions came up when this was over. Did we have to provide this information in the first place? If so, can we charge for the copies? If not, how can we say no without alienating this agent? (He has sold several of our new homes and we would prefer to stay on good terms.)

All good questions and not an uncommon situation. No, you are not obligated to provide copies of the warranty file to a real estate agent. The warranty file belongs to the builder and the homeowner. Imagine you provide this information and something in the file disrupts the sale or brings the new owner to your doorstep demanding more work on items the first homeowner had considered complete. The agent is right to be concerned about disclosure laws; but, he's selling the house, not you. The current homeowner and the listing agent have the disclosure obligation, not the builder.

Warranty File Policy

A reasonable policy is to provide copies of the warranty file *upon receipt of a written request to do so from the owner of record.*

Further, it is a good idea to attach a cover letter indicating the status of the limited warranty coverage, whether or not the limited warranty is assignable, and if it is, instructions about requesting service. Where applicable include a warranty service request form or invite the new owner to set up a warranty inspection.

Volunteer Information

In this situation you have now set a precedent with this agent (and perhaps his entire office?) of providing these copies upon request. Preempt future requests by sending him and all real estate offices with which you have relationships your new policies on this topic before you receive the next request/demand for a warranty file.

Here's an opportunity to turn a negative into a positive--a practice all good agents respect. Send a friendly letter updating his office as to your policy regarding warranty files. Include a simple form the selling homeowner could fill in and sign authorizing you to provide the file. He will get the point, and you will appear to be thoughtful and cooperative.