

**RE91R14 -
DISCLOSURES.....DISCLOSURES.....DISCLOSURES**

1. **Disclosure:** to reveal or make known a statement of fact
 - a. Mandatory
 - i. Any latent or material defects if known must be disclosed
 - ii. "Agency Disclosure" of whom the Licensee represents
 - iii. Home Inspectors Facts for Consumers
 - iv. Lead Disclosure Package Notification and Certification
 - b. Optional disclosures
 - c. Disclosures vs. notifications

2. **Chapter 93A:** requires Real Estate Brokers and Salespersons to disclose to the Buyer anything that might affect the buyer's decision to purchase the property
 - a. Demand Letter from Buyer/Attorney
 - i. 30 days before action is taken / 30 days to respond
 - ii. Outline specifies of complaint
 - iii. Parties involved
 - iv. Damages incurred
 - v. Amount of money being sought
 - vi. Possible triple damages, plus court costs, plus Attorney's fees if Agent found responsible

3. **Reasonable Care:**
 - a. Underwood v. Risman – 414 Mass. 96 (1993)
 - b. Urman v. South Boston Savings Bank – 424 Mass. 165 (1998)
 - c. DeWolfe v. Hingham Centre Real Estate – 464 Mass. 795 (2013) SJC 11168
 - d. Quinlan v. Clasby – 71 Mass.App.Ct 97, 879 N.E. 2d 703 (Mass. App. 2008)
 - e. Piers v. Wheeler – 8 Mass L. Rep 410 (Mass. Super.) 1998

4. **Possible Disclosure Issues:**
 - a. Easements: recorded/unrecorded
 - b. Zoning
 - c. Sex Offenders
 - d. Flood Plain Zone/Insurance
 - e. Environmental Issues
 - i. Mold
 - ii. Radon
 - iii. Title 5
 - iv. Asbestos
 - v. Lead Paint
 - vi. Solar Panels
 - vii. Hazardous materials (i.e. 21E status, underground storage tanks, superfund site, soil contamination and DEP)
 - viii. Wetlands
 - ix. Available public website

- f. Prior Home Inspections
- g. Stigmatized Property
 - i. Chapter 294 of the Acts of 1998
- h. Title Insurance
 - i. Cases:
 - 1. Ibanez v. US Bank National – 458 Mass. 637 (2011) SJC 10694
 - 2. Eaton v. Fannie Mae – 462 Mass. 569 (2012) SJC 11041
 - 3. Bevilacqua v. Rodriguez – 460 Mass. 762, 955 N.E.2d 884 SJC 10880
 - ii. Insurable Title/Marketable title
- i. Prior Offers
- j. Prior Physical Damage to Property
 - i. Fire
 - ii. Flood

Suggested Handouts:

Relationship Disclosure Form

Home Inspector Facts for Consumers