

State supreme court ruling rejected ‘buyer beware’ mindset in 1964

By [Special to the Sentinel](#)

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Q: What are my rights as a homeowner?

A: According to the American Bar Association, generally what you do with the home you own is up to you. “You have a right to maintain or neglect, preserve or remodel, keep, sell, or give away, and enjoy your home as you see fit.”

Like many other of our rights, however, there can be limitations placed on what a homeowner can do with a property by federal, state or local laws. Cities place limits on homeowners through zoning and building codes which may limit your ability to build a fence, move the driveway or add a garage on the property.

You and your home-owning neighbors have rights as well. If you believe that a neighbor’s home poses a safety or health threat to others, you can contact a building inspector who may require repairs or even condemn the property.

If you would like to rent all or part of your home, the Federal Fair Housing Act states that you cannot discriminate based on such things as race, religion, marital status or gender. If you decide to sell your home, Colorado law requires disclosure of any known defects, needed repairs, and violations of law, for example, that the home once had contained a meth lab. Property sellers are not held responsible in Colorado for defects about which they have no knowledge. This seems reasonable, but in some states like California, sellers are responsible to disclose any defects about which they should have had knowledge.

Home buyers have protected rights, as well. In 1964, Colorado became the first state to adopt an implied warranty of habitability for completed homes. Our state Supreme Court rejected the rationale of “buyer beware” and ruled that any builder who sells a new home impliedly warrants that the home will be suitable for habitation — that is, fit to live in.

In recent years we’ve learned about “predatory lending practices” in which some dishonest companies offered mortgages to unqualified buyers or with conditions that often lead to foreclosure or default. There are federal and state agencies that help protect consumers from predatory lending and can assist if you find yourself a victim of these practices.

Selling or buying a home these days is a complicated legal transaction requiring significant knowledge of real estate laws. The Colorado Division of Real Estate recommends that in order to protect your rights, you work with a properly licensed real estate professional whose license is in good standing. You are required to use the forms and contracts approved by the Colorado Real Estate Commission for any home sale, whether or not you are working with a professional.

The Division of Real Estate cautions against signing any documents that are not complete or are back

dated or participating in verbal-only agreements without written documentation. These practices do not protect the rights of the buyer or the seller.

Working with a REALTOR offers an additional protection. REALTORS who are members of the National Association of REALTORS are bound by a Code of Ethics that does not apply to any other real estate agent.

This article was provided by the Grand Junction Area Realtor Association. Additional information about buying and selling real estate is available at <http://www.coloradorealtors.com>.