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Read all warning clauses carefully

One client's contract referred to EMI concerns
Research found little evidence of cancer link

Virtually all builder offers contain an extensive section warning purchasers of matters that they should be aware of, and which might concern them, after they move in.

The warning clauses are inserted in agreements of purchase and sale either on the builder's own initiative, or because of a requirement imposed by various levels of government, utility suppliers, the Toronto Transit Commission or railway operators.

Typically, purchasers are cautioned that the house or condominium they are about to buy may be near major roadways, transit operations (subways, streetcars or rapid transit vehicles), future construction sites, or railroad tracks. The resulting noise levels, dust or vibrations could be of concern to homeowners, and the agreement clauses require the purchasers to confirm that they have been made aware of these issues.

Similar warning clauses advise purchasers that there may be no nearby transit service, or door-to-door mail delivery, their children might have to be bused to schools out of the area, or that their future neighbours might be commercial operations.

These clauses are fairly standard in builder contracts, but as I was reviewing a builder contract with a purchaser last week, a new warning clause literally jumped off the page at me.

The clause advised buyers that "electromagnetic interference (EMI) and stray current from TTC operations may be of concern, occasionally interfering with some activities of the dwelling occupants..."

For some years I had been aware that there was an ongoing debate about the possible effects of living next to hydro transmission lines, but I was surprised that the debate had reached such a level of concern that builders had started to caution buyers about EMI and stray electric current.

(Stephen Dupuis, executive vice-president of the Greater Toronto Home Builders' Association, told me that clauses such as these are often inserted at the insistence of a municipality or transit authority, not because they have reason to believe there is problem, but to cover themselves if a homeowner should raise objections after closing.)

My client, who has since waived the conditions in her agreement, was also concerned about the issue, so I volunteered to do some research on the subject of electromagnetic interference.

Very few people are surprised that they are required to turn off their cellphones and pagers in hospitals and on airplanes. The reason, we are told, is possible electromagnetic interference with hospital or navigation equipment.

In our modern urban society, it is virtually impossible to avoid being bombarded by invisible electromagnetic waves from radio or TV broadcasts, cellphones and other hand-held devices, television and computer monitors, and hundreds of other devices. Years ago, I had various devices in my house tested for radiation leakage, and the two appliances which caused the detector to scream the loudest were a computer monitor and a simple clock radio with an ordinary LED readout.

Based on a brief scan of some of the available literature, it appears to me that homeowners might have some cause for concern that neighbourhood EMI could interfere with the household operation of devices like radios, cellular phones, wireless household telephones, and wireless computer networks and peripherals. Some solutions have been suggested, such as moving the household devices, or using grounded cables or RF (radio frequency) filters.

Although it is always good to be warned, it seems that the possibility of electromagnetic interference significantly disturbing normal household activities in a new home or condominium is minimal.

What may be of more concern, however, is the potential relationship between living near power lines and cancer. This concern comes largely from studies of people living near hydro lines and people working in "electrical" occupations. According to a study by Dr. John E. Moulder, professor of radiation oncology at the Medical College of Wisconsin, "some of these studies appear to show a weak association between exposure to power-frequency magnetic fields and the incidence of some cancers."

(The full study is available online at <http://www.mcw.edu/radiationoncology/ourdepartment/radiationbiology/Power-Lines-and-Cancer-FAQs.htm>).

In 2001, the International Agency for Research on Cancer reported that there was "little evidence" that extremely low frequency magnetic fields could be the cause of childhood leukemia.

The following year, the U.S. National Institutes of Health reported that the overall scientific evidence for human health risk from exposure to power-frequency fields was weak.

However, it said, "epidemiological studies... had shown a fairly consistent pattern that associated potential (exposure to power-frequency fields) with a small increased risk of leukemia in children and chronic lymphocytic leukemia in adults..."

In 2004, a study by the U.K. National Radiological Protection Board noted that "exposure to power-frequency magnetic fields above 0.4 microT (4 milliG) is associated with a small absolute raised risk" of leukemia in children. It added that the evidence was "not strong enough" to justify a firm conclusion that power-frequency magnetic fields cause leukemia in children.

Professor Moulder's study concludes that the evidence that power line fields cause, or contribute to, cancer is weak to nonexistent.

If you're buying a house or condominium, my best advice is to read the warning clauses in the offer very carefully. If the offer contains a caution about electromagnetic interference or living close to power lines, and you're concerned about it, consult your doctor or a cancer specialist. Or buy elsewhere.

But don't expect medical advice from your lawyer.

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