



Case study

The Property Ombudsman (TPO) - Badgered Buyers

The Property Ombudsman was asked to review a case where the agent had failed to provide them with all material information about the property, in this case, failing to notify the buyer of badger setts in the garden.

The buyers had noticed holes in the garden upon viewing the property and when queried, the agent informed the buyer they were fox holes. After moving into the property and contacting the seller regarding some old post, they questioned the seller about the fox holes to which the seller informed them that they were badger holes. The seller said a report had been commissioned about the badger setts in the garden and had been supplied to the agent with instruction to provide a copy to prospective buyers.

The buyers subsequently contacted the agent to ask for the report, which detailed significant costs to install exclusion fences to deal with the badger sett and allow full use of the garden. The large garden was a significant selling feature of the property and the extent of the tunnels not only caused damage to the shed and lawn but meant that half the garden could not be used without the risk of disturbing the badger sett.

Findings

Under the Protection of Badgers Act 1992, it is an offence to damage, destroy or block access to their setts and can result in up to 6 months imprisonment or an unlimited fine. The presence of the Badger sett in the garden constitutes as material information which must be disclosed to all potential buyers to allow a transactional decision to be made. The agent had failed to provide all material information and there was no evidence to support the agents claims regarding sending the report to the buyer or evidence to support the verbal discussion prior to the sale.

Outcome

The Ombudsman considered that the agents inability to evidence that the buyers were informed about the existence of the badger sett at the property and that their failure to provide the buyer with a copy of the report prevented the buyers from making an informed transactional decision. The buyers sought compensation from the agent to cover the costs of dealing with the badger sett totalling £12,500. The complainant was supported with the full £12,500 settlement and the agent was directed to apologise to the buyers for 6 months of avoidable aggravation caused by the failure to ensure all material information was provided.

You can find more information about the TPO here - <https://www.tradingstandards.uk/commercial-services/code-sponsors/the-property-ombudsman>

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Notes for Editors:

For press queries, email CTSI Press Office: pressoffice@tsi.org.uk, or call 01268 582240.

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