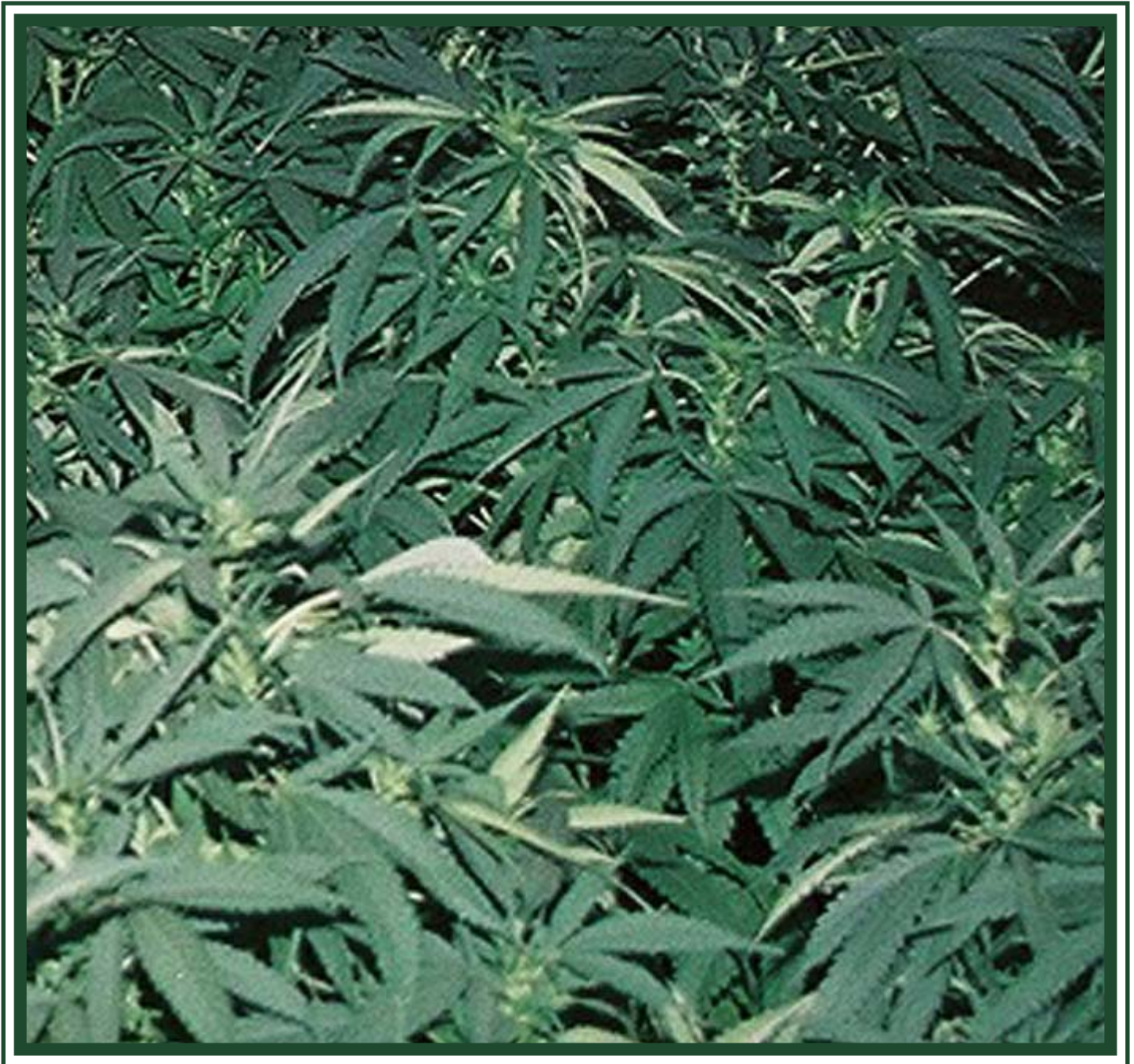


GROW HOUSES

• A NATIONAL PROBLEM •



CREA

The Canadian Real Estate Association

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GROW HOUSES - A NATIONAL PROBLEM

According to police, in 2002 there were more than 50,000 active Grow Houses in Canada. That included 10,000 in the greater Vancouver area, and another 15,000 in southern Ontario, most of those in greater Toronto. Grow Houses exist, according to police, in virtually every region of the country.

What is a Grow House?

A Grow House is an illegal indoor hydroponic marijuana grow operation.

What kind of damage does a Grow House cause?



To grow a marijuana crop in a Grow House, a number of "renovations" to the property may be required. First, growers need a constant supply of electricity. Often the foundation is compromised in some way so that the hydro can be hooked up behind the meter. Wiring and lighting are modified, overloading electrical systems and making the houses hazardous to entire neighbourhoods.

Next, there needs to be access to large amounts of water to feed the crop. That's usually a custom hook-up in the basement. Growers need some form of ventilation to handle the excess moisture generated. This may mean modifications to the drain system, or venting through the roof. The moist air is pumped through vents or pipes running up to holes in the ceiling.

The large amounts of moisture required to grow indoors can also generate considerable volumes of mold and spores. There are a number of noxious gases that develop in the process. It's also not unusual to find that pesticides have been used on the crops.

To ensure some element of privacy, in some cases false walls have been built close to windows, then decorated to give the appearance of an occupied home. In other cases, the first floor is not used as part of the operation, so when someone comes to the door it appears to be a normal private home.

These damages are also a concern to the insurance industry. According to the Insurance Bureau of Canada, the average claim to repair the damage caused to a Grow House is between \$60,000 - \$80,000.

How do I tell if a home is being used as a Grow House?

There are a variety of things that can indicate a home is being used as a Grow House. Never assume the location is too bizarre or inconvenient. Police have found Grow Houses in new housing developments, in large and small homes, in basements and attics, and in outbuildings. In one Montreal raid, a grower used his own basement but tapped the electricity from the adjacent garage of his neighbour. In another, police discovered that every second new house on a street in a new subdivision had been converted into Grow Houses - six houses in all.





What signs should I look for?

Most of the time, Grow Houses operate for less than a year, and then are put back on the market. If a Grow House is being placed on the market, it will likely require extensive cleanup and repair. However, these repairs may never be made and the real damage is hidden. Noticeable signs of the latter include:

- Mold in corners where the walls and ceilings meet
- Signs of roof vents
- Painted concrete floors in the basement, with circular marks of where pots once were
- Evidence of tampering with the electric meter (damaged or broken seals) or the ground around it
- Concrete masonry patches, or alterations on the inside of the garage
- Patterns of screw holes on the walls
- Alternation of fire places
- Denting on front doors (from police ramming the door)



Edmonton Police shut down four Grow Houses

EDMONTON Jan 20, 2003: City police and RCMP officers have busted a sophisticated marijuana-growing operation in four suburban Edmonton houses.

The grow operation was revealed after power workers discovered someone was stealing electricity from a line shared by a number of homes in a new subdivision.

On Thursday, police swooped down on one of the houses in the subdivision and discovered the pot. The three other houses involved in the grow operation are located in other north Edmonton neighbourhoods.

Altogether, police found 992 plants and equipment worth \$75,000. The four houses are worth about \$700,000. The police gang unit has been called in to investigate whether there is a link to organized crime.

Neighbours in the four-year-old subdivision said they noticed something was amiss. A woman came and went but never seemed to stay for more than an hour or two. No moving trucks ever came to fill the large house with furniture and other belongings.

There were brown streaks on the white garage, and brown-yellow icicles hanging at the side of the house. Metal bars were on almost every window and the blinds and drapes were almost always closed.

Then two weeks of power troubles in the subdivision brought the Epcor workers out, and that's when the first of the Grow Houses was discovered. Police have charged two men and two women and expect to charge a fifth man soon.

The bust comes just days after Calgary police stopped a semi-trailer carrying a shipment of marijuana and cocaine destined for the United States, and a week after a marijuana-grow operation was discovered in seven townhomes in a cul-de-sac east of Calgary.





How do I tell if my client is looking to buy a property to start a Grow House?

Anyone trying to set up an indoor site to grow marijuana needs access to real estate. There are two ways; one is to buy, the other to lease or rent. What may seem like a reasonable request for a four-bedroom house with an unfinished basement in a quiet neighbourhood may be just the right criteria a grower is looking for to start a crop. Because anyone can be a potential suspect, it's important to consider the whole picture when dealing with a client. Keep an eye out for the suspicious activity such as:

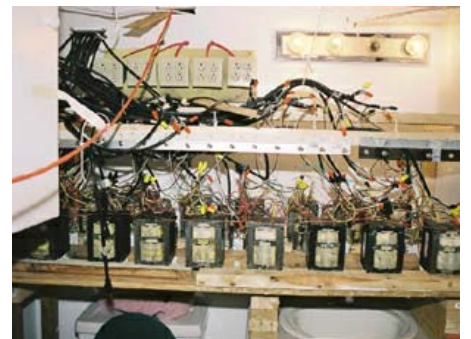
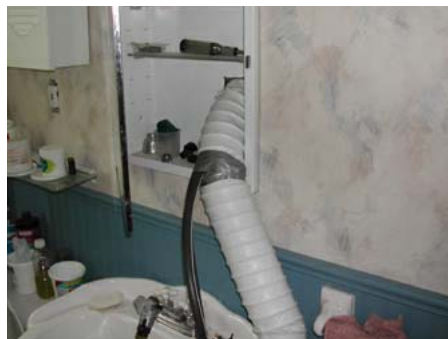
- Third party purchasers
- Questionable income sources
- No contract negotiation
- Offers to pay in large amounts of cash
- Multiple cash transactions
- Multiple down payments on behalf of one individual
- Secretiveness and no reasonable explanations

Be aware of clients financing multiple homes, and flipping names (switching between first and last names for different transactions). Look for a common thread - do you recognize the same clients buying multiple homes in the same neighbourhood?

What are the signs that my client may be involved in illegal activities?

Your suspicions may also be raised if you're negotiating a lease for a private home. Ask yourself the following questions:

- Did the applicant check out every room? (Criminals don't care about the rooms)
- Did the applicant provide proper identification (Drivers license and/or passport)
- Have references been provided and do they check out?
- Did the applicant fill out the application on site?
- Does the applicant understand the terms of the lease agreement?
- Did the renter spend a lot of time viewing the breaker-boxes, wiring and plumbing fixtures?






How do I effectively qualify a tenant?

- Will the applicant sign a lease with the following conditions:
 - No damage to premises
 - No criminal activity on the premises
 - Applicant will provide reasonable access to the landlord
 - Maintain clean and tidy premises
 - Criminal activity will result in immediate suspension of the lease
 - No extra tenants without permission of the owner
 - Exact number and names of the tenants who will be renting
 - Allow inspection of the hot water tanks and furnace every two months

How can I tell if there is a Grow House in operation?

- The buyer or tenant will unload unrecognizable equipment and very little household furnishings.
 - Growers will bring in copper and/or PVC pipe, soil, halogen lamps, large amounts of black plastic aluminum ducting, and fans.
 - Tenants may come and go at unusual hours but never seem to stay overnight; some move in for a short period of time to take care of other "crops" in the neighbourhood.
 - There is little or no garbage pick-up each week.
 - Except for some junk mail, the mailman rarely goes to the house.
 - Windows are often blacked out or heavily draped.
 - There is a strong odour similar to skunk cabbage. That's the smell of bulk marijuana.
 - Tenants may bypass the electrical system, which is illegal, or the power meter will spin at a very high speed.
 - There is often heavy condensation on the inside of the windows.
 - You can hear the humming sound of fans or generators.
 - You'll see condensation or discoloring on the roof because of inside moisture levels.
 - Unusual amounts of steam coming from vents in the house in cold weather.
 - A house rooftop with no snow on it when the roofs of surrounding houses are snow covered.
 - Individuals arriving at the house to put out the garbage, shovel the snow or cut the lawn and then leaving immediately.
 - People entering and exiting the residence only through the garage keeping the garage door closed.
 - Property with excessive security (e.g. guard dogs, "keep out" signs, high fences, heavy chains and locks on gates).
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What do I do if I suspect there is a Grow House next to a property I am showing?

Call your local drug enforcement unit immediately. A marijuana production operation can destroy a residence in a matter of months. The longer it is in place, the more damage will be done. If you've observed a number of the signs and suspect there is an indoor marijuana grow operation in your neighbourhood, please contact your local police service or CrimeStoppers.

REALTORS arrested in Grow House sweep

Toronto December 15, 2002: Two Toronto-area REALTORS are among 39 people charged after a police sweep of alleged Grow House operations in six municipalities. The raids - part of "Project New Voltage" - were staged by police between December 9th and 12th.

"The investigation determined that leaders of the organization were two real estate agents who were leasing homes, using fictitious information. Then they used the homes as marijuana Grow Houses," York Regional Police Inspector Denis Mulholland said.

"The real estate companies that employed the two suspects had no knowledge of the transactions that were taking place in relation to the Grow Houses, and have been co-operative in the investigation," the Inspector added.

In all, search warrants were executed in 56 homes in the York, Durham and Peel regions surrounding Toronto. Police seized 35,518 marijuana plants worth an estimated \$35 million. They also seized two cars, 6 houses and bank accounts worth \$950,000 under the Proceeds of Crime Act.



"During our routine follow-up investigation, we discovered that a large number of Grow Houses in the York region were run in homes leased by REALTORS," Mulholland explained. "The alleged REALTORS worked together in leasing the homes to farmers using fictitious names and identification for the purpose of growing marijuana. The two partnered to create a web of illegal grow operations that spread all the way to the Ottawa region."

A clean-up crew was also implicated in the operation to replace drywall, paint and prepare the houses for re-entry on the market. "Since June alone, the damage caused by the work of these REALTORS and their Grow House operation has cost insurance \$925,000 in damages," he said.





Disclosure

The issue for REALTORS is disclosure and education. REALTORS need to know what the health and safety issues are after a Grow House has moved out and be aware of the issues surrounding a Grow House, especially when it comes back on the re-sale housing market. REALTORS need to know if any remedial action was taken to make sure that the house is safe - for example, was the drywall replaced?

The responsibility of a REALTOR is to be as informed as possible.

Property managers, including real estate brokers, may be held liable for renting out houses that are converted to illegal operations.

Sellers of former Grow Houses must rely on real estate professionals to properly disclose the past use rather than incurring liability by attempting to hide this criminal history.

Owners of a former Grow House can face problems dealing with their insurance company and difficulties in selling the property since disclosure of the home's illegal past is necessary. Buyers can also face problems, such as mold, years down the road.

Liability

There can be potential liability on an individual salesperson or broker involved in a transaction of a Grow House, whether that involvement happened during the acquisition or the disposal of the property. If it was a rental agreement, questions may arise over what the real estate salesperson did in qualifying the potential tenant, if the owner of the property has relied on the help of the salesperson in screening potential tenants. If it turns out the tenant caused damage to the property, then it could be suggested there was not sufficient qualification.

If it is known that the property was used as a Grow House it is necessary to be specific in disclosing this to a prospective buyer in the Agreement of Purchase or Sale.

There may be some issues of responsibility and liability on the real estate professional. Did the salesperson or broker do their job in qualifying the tenant? Did the salesperson make reasonable effort to determine whether or not the property has been a Grow House?

Care must be taken each time you are involved in the sale or lease of real estate. In addition to all the usual concerns about buying and selling a home, now there is Grow House anxiety.

As a REALTOR, you take professional responsibilities very seriously. When working with clients to buy and sell properties, it's your duty to find out the facts about each property, as stipulated in the Code of Ethics.

REALTORS have a professional responsibility to discover and disclose the facts about every property they are involved in helping a client buy or sell, lease or rent. REALTORS are required to take reasonable care and diligence in disclosing the pertinent facts about a property under:

- The Canadian Real Estate Association Code of Ethics, Article Four states that REALTORS are required to fulfill this obligation to avoid error, misrepresentation or concealment of pertinent facts.
- Provincial legislation such as the Real Estate Act; the Residential Tenancy Act; and
- Federal legislation such as the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

If you have any questions about the implications of a Grow House listing, it is recommended you obtain legal advice.





Frequently Asked Questions

1. As a listing agent, am I required to disclose to a customer buyer that a property was a Grow House?

As a general rule, the disclosure obligations of a listing agent are the same as those of the seller. If the seller is required to disclose, so too is the agent.

Sellers (and therefore listing agents) are obligated to disclose that a property was a Grow House when:

1. There is an actual material latent defect of which the vendor knows or ought to know, or
2. The buyer asks a specific question or expresses a specific concern, or
3. The agreement of purchase and sale contains representations that the property was not used as a Grow House or for criminal activities, or
4. There is some statutory requirement that this disclosure be made.

If none of the above criteria are met, there is likely no obligation to disclose the fact that the property was a Grow House.

2. As a buyer agent, am I required to disclose to my buyer client that a property has been used as a Grow House?

Yes. There is absolutely no question that you are responsible for making such a disclosure to a client. If you are a buyer agent and the property the buyer is looking at was, to your knowledge, used as a Grow House, you have an absolute obligation to disclose that fact in accordance with your duty of full disclosure which is owed by any agent to a client. In fact, as part of your obligations as a buyer agent, you should take reasonable steps to ensure that the property has not been used as a Grow House.

3. As a dual agent, do I have an obligation to disclose to my client buyer that my listing is or was a Grow House?

Yes. If you are representing both the buyer and the seller as dual agent, you have an agency obligation to disclose all pertinent information to both parties. In this case, you must disclose to the buyer that the property has been used as a Grow House. As the seller may have no such obligation in law, it is extremely important that sellers be made aware of this obligation before they agree to the dual agency.





4. How do I disclose the information?

There is no standard or requirement for disclosure. The disclosure can be made orally. However, given the nature of the problem with Grow Houses, REALTORS are encouraged to act in an extremely cautious manner by having disclosure documented. If a listing agent is actually going to indicate on the data input sheet that the property was a Grow House, he or she should first satisfy himself that this disclosure is required by law and should obtain consent for that disclosure from the seller. Otherwise, any disclosure required by law should be made before any agreement of purchase and sale is signed.

5. What are the legal consequences of selling a home without disclosing that it was once used as a Grow House?

It may be that there is no obligation to disclose that the property was a Grow House (see Dispatch 2003-06). That is the first area of inquiry a REALTOR must undertake. There is, however, always an obligation to disclose material latent defects that are known or should be known by the seller. Both the seller and the listing REALTOR (if they knew or ought to have known) could be liable for damages to the buyer for the costs of any necessary repairs to make the property fit for habitation. It must also be remembered that the standard of care imposed on real estate practitioners requires them to confirm information when the circumstances dictate. In some situations, REALTORS may not be able to simply take the seller's word for the status of defects, and may be required to investigate further.

6. Should the address of a known Grow House be published by either the REALTOR or the Board?

No. Property addresses, insofar as they can be linked to a name, are personal information. Due to the ease of linking addresses to names, an address should generally be treated as an item of personal information. CREA's Privacy Code provides that personal information cannot be collected, used or disclosed without the consent of the owner of that information. Therefore, it would, in all likelihood, be inappropriate for real estate boards to be distributing this information. Furthermore, if Grow House disclosure itself is not necessarily required by law, publishing addresses is unauthorized disclosure. Boards could be opening themselves up to litigation as a result of distributing this information.

7. Do Grow Houses lower the property value of neighbouring houses?

This is a difficult question to answer with any degree of certainty. The question is whether or not a Grow House constitutes a "stigma" which devalues the neighbouring property. Grow Houses do not devalue the property any more than any other house which was used for criminal activity. It does not appear that this is the type of stigma that would have any substantial effect on neighbouring property. However, only time will tell.





Any questions or comments about the service or products CREA provides?
You can contact us on-line at info@crea.ca.

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