

Full Disclosure

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Standard property enquiries seem to get longer and longer and providing replies can be an onerous task. The recent case of [First Tower Trustees Ltd and another and CDS \(Superstores International\) Ltd](#) is a good reminder of the importance of considering these enquiries carefully, and to make sure you disclose everything to your solicitor you believe to be relevant.

In this case, the tenant entered a lease of three bays of a warehouse and an agreement for lease of another bay and subsequently discovered asbestos.

The landlord had disclosed in replies to enquiries that it had not been notified of any actual, alleged or potential breaches of environmental law or environmental problems affecting the property, but that the buyer must satisfy itself.

The landlord then received an email from its asbestos specialist revealing the presence of asbestos in the warehouse, but failed to pass this on to the tenant.

On discovering asbestos, the tenant terminated the agreement for lease in accordance with its termination provisions and commenced remedial works on the leased property.

The Court held that the landlord was liable for misrepresentation and the tenant succeeded in claiming damages for losses suffered in connection with remedial works and obtaining alternative accommodation. The words "*the Buyer must satisfy himself*" did not assist the landlord, because they were preceded by a false statement, and the tenant was being invited to satisfy itself in the context of the landlord not being aware of any asbestos.

Deadlines for transactions often run from the disclosure of a full legal package and so sellers and landlords often find themselves under pressure to get everything ready in a short space of time.

This case acts as a sobering reminder of why it is essential to make full and proper disclosure, and if you later realise that you have forgotten something, you must tell your solicitor immediately.

For more information regarding this or any other property matter, speak to us today.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

