

DOES THE AGENT HAVE TO TELL ME IF THERE'S BEEN A MURDER?

Whenever we buy an established property (as opposed to off-the-plan) we know we're buying a property with a history, but most of the time we aren't too concerned about that history.

Is the property structurally sound, is it termite free, does the property flood? These are some of the key issues most buyers are concerned with when they are looking closely at buying a property.

However, sometimes a property's history can include more than a growing family that up-sized their property to get a bigger yard. Sometimes the property can have a stigma due to recent events and these events can influence a buyer's decision on whether to buy or not.

In those instances, it is helpful to know what information you can reasonably expect to get from the seller's agent when they are showing you a property and what the law requires of agents in the situation of a potentially stigmatised property.

What is a stigmatised property?

A property may become stigmatised if it has been associated with an unsavoury event. While having no physical impact on the property stigmas can affect the way some people feel about the property psychologically.

However, this is a very subjective issue and can be different from one person to the next. What one person finds a deal-breaker may not worry another person.

For example, what if the previous owner died a peaceful death in their sleep after 40 happy years in the property? That is unlikely to influence many people's buying decision. But for some cultures, if someone has died in the property, regardless of how the death occurred, it may be considered bad luck to live in that property. So, to them, it is a stigmatised property.

What is a material fact?

There's no checklist that tells agents what they must disclose, but as a general rule if something is likely to influence someone's decision to buy a property – a material fact – then it must be disclosed.

The law does not specify what makes a material fact, but describes it as any fact that "may have a bearing on a reasonable person's decision to proceed with a property transaction".

Common causes of stigma for properties:

- Death, such as a murder, suicide or natural causes
- Crime, such as an assault, theft, drug dealing, or sexual crimes
- Health-related issues, featuring contagious diseases
- Troublesome neighbours (such as the presence of sex offender)

- Environmental conditions, which could include soil contamination, aircraft noise, industrial odours
- Other psychological factors of significance to the buyer (for example, the rumoured presence of ghosts)

This is an area the REIQ feels that the Government should do more on and the REIQ is advocating for a specific disclosure regime. It's a difficult position for agents, vendors and buyers alike to navigate. More detail and greater specificity would help everyone.

In all instances, the REIQ strongly recommends that every buyer does their own research before buying a property. In real estate, the principle of *caveat emptor* (buyer beware) generally applies, which is why buyers do their own building and pest inspections, flood investigations, conveyancing checks and other due diligence. Nothing is better than being well educated and well researched when you are looking at real estate to buy.

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