

Unearthing a property's dark past

PHOTO: JAMES HARRIS
Prisoned a spear gun to kill his wife
Kemp and daughter Gracie in March,
2004.

DEATH and real estate seldom make a compelling sales pitch.

Deceased estates can suffer a dearth of prospective buyers and home listings resulting from murders are among the toughest listings of all, agents say.

Links to violent crime or suicide are also a big turn-off for prospective buyers.

And reputedly haunted or "cursed" homes can also spook buyers, though lower sale prices are almost guaranteed.

Are agents, therefore, justified withholding facts if buyers ask why a vendor is selling, or if anyone has died at the site?

According to state and federal legislation, the answer is a resounding "no".

Sydney LJ Hooker agents Erecia and Peter Hinton were fined \$20,900 by the NSW Commissioner of Fair Trading in 2005 for taking a deposit from a family for a North Ryde house and not disclosing it was the scene of a triple murder in 2001.

The Hintons refunded the \$80,000 deposit and appealed against the court's ruling, claiming it was not misleading to describe the property as a "deceased estate".

"A deceased estate is a deceased estate. It doesn't matter to me," Ms Hinton told the inquiry (*Herald Sun*, February 9, 2005).

The courts disagree, which prompts the question: what do Victorian property agents have to tell buyers about a home's shady history?

CAROLINE JAMES
Key editor

THE LAW

According to *Fair and Square*, a guide to the federal Trade Practices Act for the Real Estate Industry, agents must not "do or say anything that could mislead or deceive clients or customers".

They must not make false statements.

And, critically, they must not remain silent.

"Silence can be dangerous," the guidebook says.

"By remaining silent when you have a duty to disclose



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something of concern to... a potential buyer, you risk breaking the law.

"You should be open and frank with customers."

Giving only "half the story" is also taboo.

THE REALITY

Real Estate Institute of Victoria chief executive Enzo Raimondo says "there is no need for voluntary disclosure" of violent crimes including murder.

"If you are asked the question, you must tell the truth, but you do not have to offer this information," Mr Raimondo says.

REIV president and Noel Jones director Adrian Jones

says homes with dark pasts are not necessarily curses to sales agents.

What's one buyer's house of horrors is another buyer's trophy home.

"There was one property I recall advertised as the former home of 1920s gangster Squizzy Taylor," Mr Jones says. "Some people thought it was wonderful because of its notorious past, others didn't care, some didn't like it at all."

But what about houses on the market simply because the vendor died?

Again, the best rule of thumb for agents is "be honest and don't tell porkies", Mr Jones says.

The REIV tells its new members "not to avoid" answering questions if they have the answers.

"If a buyer asks you if any deaths occurred at this house, if you know, tell them. If you don't (know), then say that," Mr Jones says.

However, Mr Jones advises agents "not to draw people's attention to a property's stigmas" including violent crimes, ghost sightings, messy divorces and murders.

"I wouldn't encourage marketing a new listing as 'the site of a heinous double murder'... but if you are asked if the house has a white ant infestation and you know it does, you should say so.

"And, if a vendor asks an

agent not to disclose something, you have every right to refuse to work as their representative."

THE DIRT

Some homes' sordid pasts are so publicly known that agents earn their commission sifting serious buyers from hordes of ghoulish "tyre-kickers".

Marshall White faced that challenge in 2003 when asked to sell the home of socialist Margaret Wales-King and her husband Paul King, who were bludgeoned to death by Mrs Wales-King's son, Matthew Wales, at his Glen Iris home in April 2002.

The couple's three-bedroom townhouse in Mercer Rd, Armadale, eventually sold for about \$1.5 million in a hush-hush deal seven months after it was listed.

The agency managed the high-profile home's sale by telling only "appropriate" people, who knew of the murders, then quietly arranging for about 50 prospective buyers to inspect it.

Four years later, in 2007, Marshall White was asked to sell the Burke Rd townhouse that Wales was renting when he killed his mother and stepfather.

The four-bedroom home was the scene of the murders

and, unsurprisingly, failed to sell at auction before being privately weeks later.

Agent Mark Williams said at the time: "They (the owners) can't help that they rented it to these people... we're letting everyone know as a matter of course."

Marshall White director John Bongiorno says: "Sensitivity is the key to this house issue.

"Everything has to be disclosed to interested parties.

"These properties with stigmas never sell for true market value."

Tim Fletcher, director of Fletchers real estate group,

recalls a property auction in Willis St, Balwyn North, in the mid-1970s.

The house was owned by Alphonse Gangitano, who later became a notorious gangland figure before he was murdered in 1998.

Mr Fletcher remembers going to the house for the first time and watching his client "strutting around with his sunnies on".

"It was his early days... I knew he wasn't 100 per cent right, but figured, you can't knock back business so I took on the job," Mr Fletcher says.

"Before the auction, people asked if this was Gangitano's house and I said 'yes' because his name was on public record on the sales contracts, but I

made no comment on his background and found him very business-like.

"I do remember looking out at the auction crowd at one point and wondering if I should be wearing a flak-jacket.

"Half the people who attended were undercover detectives."

Mr Jones says some buyers get "feelings" about homes and those instincts should be taken seriously.

Several years ago, he sold a house to a man in Glen Iris only to be asked to relist the property 12 months later because the vendor "didn't like the feel of it".

The property sold quickly.

"We heard later that when the new owner started renovations, they found human bones in the backyard," Mr Jones says.

"The person they found had been murdered about 70 years ago."

And for some buyers a home's history should stay in the past.

Mr Jones has also sold a home, in Camberwell, to a man who found a hand gun while knocking out walls.

"He told me he didn't want to dig up history so he simply laid it back in the bricks and concreted it."

Buyer's advocate Christopher Koren, of Morrell & Koren, has simple advice for squeamish buyers.

"If there is any suspicion, ask the agent why the vendor is selling," Mr Koren says.

"And if the agent raises their eyebrows but he or she does not know, ask the neighbours or the police. Trust your instincts."

REIV president and Noel Jones director Adrian Jones