

Trick of treat

What does the law say about disclosures of a 'haunted' property?

By
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We have reached the season in New Hampshire when the leaves are turning and the signs for haunted houses proliferate the landscape promising ghosts, ghouls and other ghastly events. As Halloween passes, these houses will return to their normal state, but what about houses where real bone-chilling events have occurred? What must a seller or REALTOR® disclose to potential purchasers?

New Hampshire law is clear that sellers and REALTORS® have no obligation to disclose the fact that a death or other violent acts have occurred on a property. Under RSA 477:4-e, I.(a), the owner or any real property or their agent may not be required to disclose to a buyer that the "property was a site of a homicide, other felony, or a suicide," unless the buyer requests that information and the owner or agent has actual knowledge that the property was the site of a homicide, other felony, or suicide.

Additionally, sellers or REALTORS® that do disclose such information at the request of a buyer are shielded from liability related to that disclosure. RSA 477:4-e, I.(b). Note, however, that REALTORS® representing fearful (or macabre) buyers may specifically negotiate the disclosure of these events in their purchase and sale agreement.

Perhaps that is what the buyer should have done in the New York case of *Stamovsky v. Ackley and Ellis Realty*, 169 A.D. 2d 254 (1991). In that case, the buyer successfully sued for rescission of his purchase and sale agreement after discovering that



the contracted for home was locally known as being haunted. The court focused on the fact that the owner had not disclosed the home's haunted reputation to the buyer after having openly touted its paranormal activities, which had been the subject of local press and even a "Reader's Digest" article.

Thus, the court found that the seller was prevented from later denying the existence of ghosts within the house and allowed the purchaser to back out of the deal.

The Stamovsky case is generally seen as an outlier, but it should caution REALTORS® that sellers who hold their homes out as being haunted may not later be able to deny those facts. As always, REALTORS® with questions about disclosures may wish to consult with an attorney.

Hopefully all of your haunted houses disappear after October 31. Until then, Happy Halloween!

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