



October FAQ: Disclosure of a Death on a Property

By: Tiffany Davis, NVAR Legal Counsel

Q: I represented a buyer in a transaction, and he just found out from the neighbor that the previous owner had committed suicide in the house. He is furious that this was never disclosed and wants to know his recourse.

A: I actually get this question quite often. Usually the scenario goes something like this: the buyer, excited about their new home is outside enjoying their garden. A neighbor walks over and strikes up a conversation, welcoming the family to the neighborhood. Within the first two minutes the neighbor makes a comment to the new homeowner about the death in the house. It always seems the neighbor innocently thought the buyer had to already know about this! So the question is then, does the seller or the seller's agent have to disclose the fact that there was a suicide or death in the home? NRS 40.770 tells us no, this fact is not material to the transaction, except for a death that results from a condition of the property.

NRS 40.770 Limitation on liability of seller, seller's agent and buyer's agent for failure to disclose certain facts concerning property.

1. Except as otherwise provided in subsection 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

is not material to the transaction.

2. In any sale, lease or rental of real property, the fact that a sex offender, as defined in [NRS 179D.095](#), resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to [chapter 449](#) of NRS is located near the property being sold, leased or rented is not material to the transaction.

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and that person's agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.



6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by the board of health.

7. As used in this section:

(a) "Board of health" has the meaning ascribed to it in [NRS 439.4797](#).

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in [NRS 449.0055](#).

(Added to NRS by [1989, 629](#); A [1995, 845](#); [1997, 1674](#); [2003, 1338](#); [2005, 2353](#); [2007, 2772](#); [2009, 826](#))

It is important to discuss with your client the ethical dilemmas surrounding this scenario. Often the seller would rather just disclose the death. But that decision over whether or not to disclose confidential information is up to the client. Finally, it is important to keep in mind that the agent is not allowed to give misinformation or lie. You and your client should discuss what to do if a buyer asks you directly, and get that in writing and approved by your broker.

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