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The Toronto Star Homes/Condos Story

October 28, 2000

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Spectre of tainted homes raised

Should vendor be obliged to disclose grisly history?

Tuesday is Halloween and wee ghosts and goblins everywhere will be pretending that their home, or those of friends, are haunted. For most of us, it's just fun and make believe.

But for others it can be a real nightmare. By last weekend, Toronto had recorded a total of 50 murders for the year. Based on historical data, about 60 per cent of homicide offences occur in the home of the victim or the suspect.

This means that over the years, dozens, if not hundreds, of Toronto homes have been the site of murders. Today, many Torontonians may unknowingly have purchased and be living in homes that have a connection to a grisly crime or tragic cause of death like fires or drownings. Last Sunday's Star told the story of a non-profit housing co-operative overlooking the lake in the Mimico and Lake Shore Blvd. W. area. Three years ago, a 2-year-old wandered off from the building and drowned in the lake. A year later, a 3-year-old died of smoke inhalation in the building. Two suicides and a death by manslaughter have also plagued the building, and last Saturday a fire tore through its upper floors.

Ryan Gibbs, a resident of the building, was quoted in Sunday's Star as saying, "Sometimes it almost feels as if this area is haunted." Gibbs is concerned about the current occupants, but what about the future ones?

Should it be the obligation of a vendor or real estate agent to disclose to a purchaser the fact that a home might be "psychologically impacted" or stigmatized by its past?

Homebuyers might have legitimate concerns that a home could be tainted or haunted - even if those concerns are based on non-physical, unscientific or even irrational perceptions.

The disclosure obligation has been the subject of deliberations in courts and legislatures in the United States since the early 1980s, but in Canada the subject merits hardly a passing thought.



Consider the family of George and Kathleen Lutz who purchased a house in a small town in New York state in 1975.

The previous year, Ronald DeFeo murdered his parents and four siblings in the house. For 28 days after they moved in, the Lutz family allegedly experienced psychic phenomena traditionally associated with a "haunted" house. Their story, the Amityville Horror, became a best-selling book and the inspiration for several films.

No public record seems to exist on the fate of the real estate agent who sold them the house. At least 20 American states and a number of local U.S. real estate boards have adopted rules requiring varying degrees of disclosure when a house has a reputation as being psychologically impacted.

The disclosure movement began following a 1983 California court decision. Dorris Reed purchased a house from Robert King. Neither King nor his real estate agents told Reed that a woman and her four children had been murdered there 10 years earlier.

Quoting Shakespeare's Merchant of Venice (Act 2, scene 2), the judge said, "Truth will come to light; murder cannot be hid long." Reed learned of the gruesome episode from a neighbour after moving in. She discovered that no one wanted to buy the house from her because of the stigma and she sued to set aside her purchase.

The California Court of Appeals ruled in Reed's favour, declaring there was a duty to disclose facts known or accessible only to the seller if the information could have a significant and measurable effect on market value. Shortly after Reed vs. King, California became the first state to pass a law defining the disclosure responsibility of an owner and real estate agent when selling stigmatized property.

A similar case occurred in New York in 1989 when bond trader Jeffrey Stambovsky put a deposit on a \$650,000 house overlooking the Hudson River in Nyack, New York. Unknown to him, the vendor had published stories in Reader's Digest about the house's ghost, a cheerful little fellow in a revolutionary war uniform.

The house had been included in local walking tours as a "riverfront Victorian with a ghost." The court said that the broker had no obligation to disclose, and Stambovsky "hadn't a ghost of a chance" to prove fraud. But he got his deposit back because the house had a prominent reputation and the non-disclosure of its history struck at the very essence of the contract between buyer and seller because of the reduced value of the house.

In this country, purchasers are free to ask about whether a home has a tainted history, but vendors may not be under an obligation to disclose or may simply not know about tragic events on the site.

Earlier this year, at a friend's wedding party I met another guest who turned out to be one of the real estate agents who sold the fabulous Gianni Versace mansion in Miami (at a reported \$27 million US). I asked him how he was able to sell it after its owner was murdered in the house.

He told me that the place had been on the market for months and in desperation the agents called the owners of Earth Release in Jacksonville, Fla.

Operated by Diana Burney and Virginia Porter, the company has an incredible track record of providing spiritual "clearings" of properties, people, homes and businesses. (See their web site at <http://www.earthrelease.com>.)

These are not the fictionalized ghost busters, but two very serious women who identify specific "blockages" within properties and use their varied talents to clear them. Once the clearing of the Versace mansion was completed, the property sold in less than six weeks.

If you're concerned about a house, ask questions and perhaps consider a

house-cleansing service like Earth Release.

Bob Aaron is a Toronto real estate lawyer. Send questions to Title Page, New in Homes, The Toronto Star, One Yonge St., Toronto, M5E 1E6, or by e-mail to bob@aaron.com

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