

Price advertising for residential property sales

November 2007



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This fact sheet provides you with important information when you are looking to buy a residential property either at auction or by private sale. It specifically covers the marketing and advertising of property prices by estate agents.

There are laws in Victoria that are intended to prevent agents from making false or misleading statements about property prices, in particular, underquoting the estimated selling price to prospective buyers. There are substantial penalties for agents who do not comply with the law.

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Got a problem with an estate agent?

Call the Estate Agents Resolution Service at Consumer Affairs Victoria on 1300 73 70 30.

What is underquoting?

Underquoting occurs when an estate agent (or representative):

- advertises or advises a prospective buyer of a price that is less than the seller's asking price or auction reserve price
- advertises or advises a prospective buyer of a price that is less than the agent's estimated selling price
- advertises or continues to advertise a price that is less than a genuine offer or expression of interest by a prospective buyer and previously refused by the seller, or
- gives an inaccurate appraisal of the current market price of a property.

The agent's estimated selling price is the amount that the agent believes a willing but not anxious buyer would pay for the particular property. It must be a realistic estimate of the likely selling price at the time the authority is signed and is determined by the agent, based on their experience, skill and knowledge of the market.

Examples

If a three-bedroom house in Richmond is advertised for auction at "\$640,000 plus" (and sells for \$780,000) but the seller's reserve (known to the agent at the time the property was listed for sale) is \$730,000, this is a case of underquoting.

Importantly, the practice of underquoting is directly linked to the seller's asking price, auction reserve or the agent's estimated selling price, rather than the eventual selling price.

Example

If a two-bedroom house in McKinnon is advertised for auction at “\$480,000 plus,” and the agent’s estimated selling price is a range of \$520,000 to \$560,000, this is a case of underquoting.

A significant difference between the advertised price and the eventual sale price does not necessarily mean that the property has been underquoted. In some instances, there is genuine demand for a property that results in a high sale price due to competition at auction or during the private sale process.

For example, a four-bedroom house in Bentleigh that is advertised at “\$450,000 to \$495,000” based on the agent’s estimated selling price, has an opening bid at auction of \$460,000, is on the market at \$525,000 (the seller’s reserve set on the day) and sells for \$595,000 due to competitive bidding. This is **not** a case of underquoting.

Agents’ responsibilities

When a property is marketed for sale, agents have obligations to both buyers and sellers. You should always keep in mind that the agent is working for the seller who has engaged him or her to sell the property.

As a buyer, you can generally expect an agent to:

- advertise properties at prices that reflect the auction reserve, asking price or the agent’s estimated selling price
- answer questions about listed properties and provide details of comparable sales in the area, and
- communicate genuine offers to the seller.

Guidelines for agents

CAV has published guidelines to assist estate agents and agents’ representatives to comply with the law when advertising or providing advice about the price of residential properties. The rules governing underquoting apply equally to private sales and auctions.

What the guidelines mean to you

The key principles underlying the guidelines are that an estate agent or an agent’s representative:

- **must not** advertise or advise that a property is for sale at a price that is less than the seller’s **reserve price or asking price**, when the seller has set such a price
- **must not** advertise or advise that a property is for sale at a price that **is less than the agent’s current estimate of the likely selling price** for the property, when the seller has not set a price
- **may** advertise a price that is a **single amount** or a **price range**
- **should** obtain the seller’s written approval of the price or range at which a property is to be advertised or marketed for sale, along with their written confirmation that they will consider offers at that price or for all prices within that range, before advertising the price of a property for sale
- **must** update the advertised or quoted price during the sales campaign to reflect any change in the seller’s selling price, the agent’s current estimate of the likely selling price and for the amounts of any offers rejected by the seller, particularly a written offer or written expression of interest. A written expression of interest is any statement in writing from a prospective buyer that includes a price and that is intended to gauge the seller’s reaction.

For complete details of the guidelines, see *Guidelines for real estate salespeople – price advertising and underquoting* on the CAV website:

www.consumer.vic.gov.au.

What should you do?

- Ask the agent what price the property is expected to sell for and request details of comparable property sales in the area and the basis for the advertised price.
- Check online advertisements or contact the agent to see whether the advertised price for the property has changed closer to the auction date.
- Attend as many auctions as possible to learn how the process works.

Frequently asked questions

Q: What should I expect when buying at auction, as opposed to a private sale?

A: At both auction and private sale, the seller is testing the market to obtain the highest possible sale price. However, an auction can produce a different sale outcome where competition for the property on auction day and spending limits of potential buyers will be critical factors in the eventual sale price. At private sale, potential buyers may not be aware of other offers and are not engaged in an open competitive process which can often result in a different sale outcome.

Q: What could I ask an agent when enquiring about the selling price of a property?

A: Ask the agent what price the seller is seeking and for the details of similar properties that have recently sold in the area to enable you to make comparisons.

Q: What can I do if I believe that an agent has deliberately underquoted the selling price of a property?

A: You should first discuss the matter with the agent concerned. If you are not satisfied with the response, you may contact the Estate Agents Resolution Service (EARS) for advice on 1300 73 70 30.

What is EARS?

The Estate Agents Resolution Service (EARS) offers a free service dedicated to the provision of advice, information and dispute resolution on real estate matters. It is part of CAV and it helps resolve disputes in a mutually satisfactory manner. It also monitors the conduct of estate agents and may refer matters for further investigation if necessary.

Information

For more details about obligations of estate agents and the rights of buyers, please see *Real estate: a guide for buyers and sellers* which can be found on the Consumer Affairs Victoria (CAV) website www.consumer.vic.gov.au.

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Further Reading

Consumer Affairs Victoria has a range of real estate related publications:

- Real estate: a guide for buyers and sellers
- First home buyers' checklist factsheet
- Conveyancing factsheet
- New conveyancers laws factsheet
- Owners Corporation Act – Changes to body corporate laws factsheet
- Estate Agents Resolution Service factsheet

More information

Estate Agents Resolution Service (EARS):

Consumer Affairs Victoria

Victorian Consumer & Business Centre

113 Exhibition Street

Melbourne 3000

Telephone 1300 55 81 81

Website www.consumer.vic.gov.au

Law Institute of Victoria

www.liv.asn.au/public/general/home

The Land Channel

www.land.vic.gov.au

Real Estate Institute of Victoria

www.reiv.com.au

Regional Offices

Consumer Affairs also has regional offices located in Ballarat, Bendigo, Geelong, Morwell, Mildura, Wangaratta and Warrnambool together with a mobile outreach service that regularly visits rural communities. To find details on the office or mobile service nearest you, ring 1300 55 81 81 or go to the Consumer Affairs Victoria website on www.consumer.vic.gov.au and click on the Contact Us link.

Because this publication avoids the use of legal language, information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation. Authorised by the Victorian Government 121 Exhibition Street Melbourne Victoria 3000.
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