



Is criminal activity at or near a listed or managed property a material fact that agents must disclose?

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QUESTION: I am a property manager. One property I manage is a single-family home in a subdivision. Recently, someone fired gunshots, one of which hit the outside of the home. I have managed the property for many years and this is the first time anything like this has happened. Going forward, do I have a duty to disclose the incident to future prospects?

ANSWER: We have heard similar questions from property managers and from listing agents. The answer is the same for both: with limited exceptions, past criminal activity at or near a managed or listed property is not a material fact that agents are required to disclose.

The North Carolina Real Estate Commission has written that material facts include facts that relate directly to a listed or managed property. Generally speaking, past criminal activity at or near a subject property does not meet that definition.

The Commission's *North Carolina Real Estate Manual* includes the following description of facts that relate directly to the property: "These are typically external factors that affect the use, desirability, or value of a property, such as a pending zoning change, the existence of restrictive covenants, plans to widen an adjacent street, or plans to build a shopping center on an adjacent property." All of these examples share several things in common: they are facts that are certain to have a future effect on the subject property, and the future effect is something that can be assessed in an objective way. Most past criminal activity is different. Unless a particular property has been targeted in some way, and there is reason to believe that the targeted criminal activity will continue, there is no way to predict with any degree of certainty the location and quantity of future criminal activity. Recognizing that reality, the Commission's legal staff has agreed that disclosure of past isolated incidents of crime, even violent crime, is not required.

Having said that, renters and buyers are often interested in knowing about local crime rates when deciding where to purchase or rent. An agent who is asked about crime statistics should remember that the Fair Housing Act makes it unlawful to make a statement with respect to the sale or rental of a dwelling that indicates a preference based on certain protected classes. To avoid an allegation of steering, an agent who is asked about local crime rates should refer their clients to publicly available statistics. One good source of information is crimemapping.com.

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