

DEATH AND REAL ESTATE:
A STUDY OF THE IMPACT OF DEATH BELIEFS
ON REAL ESTATE VALUES

CENTRE FOR NEWFOUNDLAND STUDIES

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**Death and Real Estate: A Study of the Impact of Death Beliefs on Real
Estate Values**

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Abstract

The purpose of this thesis is to examine the means by which death beliefs impact home-purchasing decisions; specifically in terms of the decision whether or not to buy a house in which a death has taken place. This is achieved by approaching the subject from several angles including legal issues, emotive reactions to residing in close proximity to a recent death, a comparison of haunted house imagery in popular culture with the expressed beliefs and fears of my informants, feelings about shared space between the living and the dead, and the power which rumour can exert on a property's value in response to these beliefs.

The means used to investigate this subject includes interviewing real estate agents—primarily in St. John's, Newfoundland—as well as a number of persons who are actual or potential home-owners as to their experiences, feelings and thoughts on the issue of living in a home where one or more persons have died. In the case of real estate agents interviews concentrated on the sale of such homes, as well as real estate agents feelings about this topic. In addition to interviews, I have explored the literature

available on the questions of death, belief, haunted houses and ghosts, among other topics, including an exhaustive study of the state of both US and Canadian Real Estate Industries in regards to the problem of property which has been "psychologically impacted" or "stigmatized" by deaths or other non-material events.

While there exists a growing awareness in the United States and Canada of the issue of stigmatized property and those things which can introduce such a stigma, there is not an equal growth of understanding of the beliefs of buyers. While the concept of "caveat emptor"—buyer beware—is being replaced by disclosure laws in both countries in regards to physical problems, the concept is only newly being applied to psychological damage. This thesis examines the extent of folk-belief which supports disclosure developments in real estate law.

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Chapter I

Introduction

The Encyclopedia of Occultism and Parapsychology reports the following story

About 1919, a number of British newspapers contained, throughout several consecutive weeks, an advertisement offering for sale "an Ancient Gothic Mansion, known as Beckington Castle, ten miles from Bath and two from Frome." After expatiating on the noble scenery around Beckington and the rare architectural beauty of the house itself, the writer of this advertisement proceeded to say that the place was the more desirable because it was reported to be haunted! (Shepard 585)

The article goes on to state:

...And if the purchaser of Beckington Castle had to pay an additionally high price because the place rejoiced in a veritable ghost, in reality anything of this sort used to make a house almost unsaleable. At Lossiemouth... a fine old mansion stood untenanted for years and was eventually sold for a nominal sum.

This thesis will examine the effect of supernatural beliefs on house-purchasing decisions and consequently the impact on real estate sales of like properties. The cases of Beckington Castle and Lossiemouth illustrate two possible consequences of supernatural belief on the housing market. Each house was haunted, for one it was a selling point, for the other a severe liability. Both cases, however, illustrate the impact of folk-beliefs on housing purchase.

Some of the difficulties in selling homes can be traced to knowledge of a death in the residence. This thesis will assume the relationship between beliefs about death and changes in perceived house conditions to be problematic. In doing so it will address the question of how our beliefs about (and subsequent reactions to) death influence a number of choices, such as where we will live or how we perceive the history of our homes. This

study will also discuss how such beliefs can function to influence the laws and the policy of official culture: specifically legislators and real estate boards. In essence, an effort will be made to determine emic notions of the effects of death on living and environmental spaces.

The opening quotations are prime examples of the effect which folk belief can and has had on many aspects of our day-to-day lives, such as the purchase of a home. There is a general though not universal trend in house-buying: avoidance of those dwellings in which a death has taken place. More specifically, there seems to be an aversion to acquiring a dwelling in which a violent, sudden, or premature death has taken place. There tends to be a lesser aversion to death through illness or old age. Death by accident falls into both categories and is subsequently a grey area: reactions tend to depend on the "gruesomeness" factor of individual incidents.

The opening narratives involve homes that are "haunted" by the spectre of death in the form of ghosts wandering the halls. In the second case, the house's marketability was damaged due to

the presence of the apparition. There is no evidence that the ghost affected the physical livability of the structure; its mere presence kept buyers away. The Beckington property, in contrast, had a ghost that, despite its far more grisly and obvious nature, acted as a selling point. This examples provides us with a clear indication that, above all, those things which will stigmatize¹ a property are subjective. The subjectivity of stigma is a great part of why the houses present such a problem to both buyer and seller.

For a great number of buyers, comfort with a house is not determined solely by a lack of major structural problems or proximity to good schools. Much that influences buyer satisfaction is, like the two ghosts discussed above, to some extent intangible, and more to the point, not the same for everyone. This subjectivity leaves real estate agents with moral dilemmas in the shape of what they should tell the prospective buyer outside of what is required by law. This will be demonstrated by the discussion in Chapter 2 regarding the term "psychologically

¹Stigmatizing can be defined as "psychologically damaging" a property. To be defined more fully in the next chapter.

impacted property," and Chapter 3, on how different informants deal with a variety of theoretical and actual deaths.

One's home is the place where a person believes they should feel most comfortable² and therefore it is unlikely anyone would want to purchase a residence with "something" about its history that would impede relaxation inside its walls. While there are assuredly many things which can have such an effect, the aim of this thesis is to investigate how and why awareness of one or more deaths having taken place in a home influences the purchase of the house.

Not every house contains obvious and/or disturbing evidence of events which may have taken place in its history, yet even residences without ghastly figures in the halls can prove difficult for sales if they have been the site of unpleasant occurrences. This can be attributed to a number of reasons: whether the death was violent or peaceful, how long ago it

²Douglas Porteous in "Home, The Territorial Core," speaks of the home as territory in this manner: "... exclusive control of territory confers three substantial benefits on its occupants. These essential territorial satisfactions are identity, security and stimulation." (383). It can be argued that regardless of whether the house is haunted or not, the event of a death in its past, could lead a current or future resident to feel that he or she did not possess "exclusive" control over this "territory".

happened, the age of the person who died, or the number of deaths. But the most important factor appears to be the emotional reaction of the buyer to that death.

There are further qualifications to this uneasiness: who died and where and how the death took place. For instance, a death which barely merits attention when seen on the news, is an entirely different issue when it has taken place in a house one is thinking of purchasing.

Homes such as those in the opening quotes also add to the problem of psychologically damaged homes. That is, many homes in which deaths have taken place suffer from rumours of hauntings. Even if they do not, there is sufficient cultural awareness of the link between violent death and ghosts to make some buyers think twice before making an offer, regardless of any evidence.

This thesis will investigate the discomfort, uncertainty and out-right fear that can arise at the prospect of purchasing a home in which one or more deaths have taken place. It will also look at how these fears affect not only purchasing decisions but current

and pending laws and policies, issues of space, rumours and hauntings. Of primary interest to this thesis is the issue of those willing or unwilling to live in a house where a death has taken place and how such reactions impact on the real estate industry.

Chapter Breakdown

Chapter 2 - Real Estate Law

The second chapter will deal with real estate law. In it I will investigate North American real estate and the means by which the industry is coming to terms with this problem. The topic at hand for real estate agents, brokers and others is that while the majority of states in the U. S. have relatively consistent policies in place on material defects³ they are far less clear on the psychological factors⁴.

Events such as death can "stigmatize" that property. This means, due to fears—belief-related and otherwise—on the part of

³Material defects are those things which primarily damage the home physically - leaky roofs, rotting floors boards - rather than emotionally.

⁴While Canada has had unofficial policies on both subjects for quite some time, is only beginning to institute specific material defect legislation and hopes to avoid the psychological defect issue altogether. This too will be elaborated on in Chapter 2.

potential buyers the home can become difficult to sell and may face a moderate to substantial price reduction. This chapter will deal primarily with how the real estate industry confronts dilemmas that can result from such events, including what the law may or may not have to say on the subject.

A second aspect of this chapter will be the difference between the manner in which official culture—such as lawmakers—and folk culture⁵ deal with stigmatized property. This can include everything from requiring disclosure forms to the demolition of properties that suffer from severe public stigma. The latter is to be considered a folk response, as there exist no legal provisions to tear down homes which are the site of particularly horrifying crimes. However, in both Canada and the United States, there is often just such a community response.

Chapter 3 - An Examination of Death Beliefs and Their Possible Effect on Home Buying

This chapter will cover reactions to death in houses. In it, I

⁵Which in this case may or may not include real estate agents, depending on the specifics of each case.

will use interviews with real estate agents, homeowners, and potential home-buyers that discuss these informants' reactions and/or experiences regarding properties wherein deaths have taken place. This will include deaths which are deliberate, such as murder and suicide, as well as ones occurring by accident. Deliberate death is particularly capable of inducing emotive reactions in prospective buyers which will impact on their decisions. The reactions of potential buyers will be investigated in conjunction with the experiences of real estate agents in selling such homes. In addition, I have felt it pertinent to include the personal feelings of the agents from time to time as both grounding for and comparison with those expressed by the general public.

In Chapters 4, 5 and 6 I will explore the supplemental issues of haunted houses, space and rumours' effects on home sales. While I do not consider these aspects of research to be as crucial as those covered in the first two chapters, they are nonetheless significant.

Chapter 4 - Comparing Popular and Literary Ghosts with Home Purchasers' Beliefs

Haunted houses are of consequence because of their presence in the belief-structure of society. An important tradition exists indicating a strong connection between deaths and the subsequent appearance of ghosts. While this chapter does provide examples of people who lived in houses that were haunted, very likely due to deaths, it also looks at the expectation of ghosts in houses where someone has died. In addition it will look at the positive affects hauntings can have on commercial properties. That is, while ghosts will often prove detrimental to home sales, they can, in the case of commercial properties such as hotels, add to the appeal.

Chapter 5 - Issues of Space Between the Living and the Dead

Chapter 5 will delve further into the problems which are often anticipated regarding the purchase of a house which is potentially haunted. It will do so by investigating the problems of sharing space with a deceased former tenant who has not wholly

vacated the property. Shared space will be examined in terms of the sense of how space both is portrayed and perceived in such situations, and the means used to placate the dead and reclaim the space.

Chapter 6 - Law or No Law: Stigma and Rumour as They Impact Home Sales

Chapter 6 will touch on the negative consequences in respect to homes rumoured to be the site of a haunting, murder or other tragic event. At issue will be properties that have sold for considerably less than their estimated value due to notoriety—regardless of the truth or falsehood of those rumours. For instance: ". . . the publicity surrounding the sale of actor Rock Hudson's home decreased the value of his home from \$4 million to \$2 million after he died from AIDS related complications" (Kloberdanz 8). While most other deaths do not have such an extreme effect on the estates they touch, awareness of a stigmatizing death can and does have a detrimental impact on price and sales.

Rumour can also act in conjunction with legend and notoriety to keep the memory of a bad situation alive long after the general public has forgotten it. The impact of notoriety can include alerting a person viewing the house that "It" happened "here", even if this requires informing the innocent of precisely what "It" may be. Furthermore, as will be shown in Chapter 4, if the property is commercial, notoriety can act to encourage sales rather than discouraging them.

The concluding chapter will cement the connection between belief and the demonstrated reactions surrounding the purchase of homes wherein a death has taken place. This will be undertaken by a direct application of the theories and work of belief scholars⁶ to the information I have gathered in my research. I will also apply other works on the subject of death and societal reactions.

Research Methods

Due to the uncommon nature of my subject, that is, using

⁶ Such as David Hufford (1982), Gillian Bennett (1987) and Diane Goldstein (1991) on the subject of the supernatural.

real estate law and experience as a basis for the interpretation of how death-related beliefs affect our experiences and choices, I have not strictly applied any single theoretical approach. However, several have proved generally or explicitly valuable, including theories regarding spatial issues and how the living relate to the dead.

Where possible, I have attempted to look at the varying reactions/expressed beliefs of both public and private sources. This was done in order to make comparisons between the perspectives of folk and official culture as they apply to house-buying decisions and to interpretations of how belief can and does influence action. This dichotomy has proven particularly relevant and useful when comparing articles written by U.S. real estate agents to comments made by real estate agents in St. John's, Newfoundland, and the opinions of my informants.

In the process of researching and writing this thesis I have undertaken to use as diverse a body of source material as was possible without exploding the scope of the study into something unmanageable. I completed some 51 interviews, 17 of which

were with real estate agents—primarily in the St. John's, Newfoundland area—and 34 with people who have purchased or hope to someday purchase their own homes. In the course of these interviews, I questioned the parties concerning their beliefs and personal experiences regarding death in a home they might live in. I have also read an extensive body of folk, official, and popular literature on the subjects of death and dying and the real estate industry. I have made use of law libraries, conventional bibliographical searches, and the internet to seek out esoteric source materials.

My literature searches revealed an immense body of information on the subjects of death and ghosts. I attempted to sort out the most pertinent sources and apply them in the most appropriate fashion. I have further found that works on the subjects of spatial issues and legend have been applicable to my analysis.

One of the greatest sources of information came from innumerable real estate publications on everything from state by state disclosure law, to real estate agent reaction to stigmatized

properties,⁷ to personal experiences with ghosts. These works originated primarily in the United States due to this subject having been of legal interest there far longer than it has been in Canada. However, the information I received from Canadian publications, while of a lesser quantity, was no less valuable to my understanding of private and public variance on the interpretation of how death in the home should be handled.

Researching Death

My interest in this project arose from a long time fascination with the many ways in which death is confronted by various cultures.

According to Jon Davies in *Ritual and Remembrance*:

Death has never been taken for granted, taken as simply natural. All cultures, in separating themselves out from the generality of the human race and in creating both inter-group and intra-group hierarchies, in creating a history of and for themselves, have woven a view of death into it. The idea of death as a necessary sacrifice made by all human beings is at the centre of this view — but it is paradoxically overlain with a depiction of death as the result of sin. (24)

⁷If nothing else, this thesis has dramatically increased my preparedness if I am ever in a position to purchase a home.

It is this paradoxical nature of death which has drawn me to its study. Inasmuch as we live with death as one of the most inevitable and normative processes of life, we still react not only with understandable fear of the unknown, but with the two equal and opposite emotions of acceptance and avoidance.

Much of information I uncovered could be considered extraneous to the subject matter at hand.⁸ However, I cannot help but feel that the diverse areas covered in this thesis, including the problems of sharing space with ghosts, add support to yet another statement by Mr. Davies:

It would appear that few of the cultures of the hundred billion dead have been able to conceive of death as anything other than a punishment, a built-in destabilizing factor destroying not only each individual life. . . but also the very possibility of stability or permanence in human affairs. (27)

Fieldwork

My fieldwork has been an ongoing process over the course

⁸I am indebted to Diane Goldstein for making it possible for me to narrow my focus to the matter of how people react to living with the memory of death.

of the writing of this thesis. The majority of my interviews with real estate agents took place in the summer of 1995, but the process of questioning friends and strangers alike has spread out over a longer period of time. This is due in part to the length of time I needed to fully come to terms with what was necessary for the production of this thesis, and to the fact that over this course of time, I have had friends and friends of friends who entered the process of house-hunting and were kind enough to share their experiences with me.⁹

The interview gathering was in two parts. My initial forays involved randomly phoning real estate agencies within the province, explaining my mission, and asking if any agents were willing or able to share their experiences with me. This proved both more and less efficacious than I had anticipated. I was surprised at the number of agents who, regardless of their own personal experiences, were willing to set time aside and share their knowledge, beliefs, and opinions with me. In this way I was

⁹Unfortunately, none of them purchased houses specifically related to my thesis, but they were kind enough to keep me in mind while they were looking or share their experiences afterwards.

able to gather a great deal of information on real estate policy in St. John's and some of the more spectacular deaths which have taken place in the last half-century or more.

The interview questions varied from person to person relative to their experiences, which areas they were willing to give information on and where they appeared uncomfortable. The questions also developed with my own changing awareness of what inquiries would elicit responses. However, there were two general patterns I attempted to follow, one for real estate agents and another for (potential) homeowners. In the case of agents I tended to approach the interview as follows:

Interview Questions: Real Estate Agents

Have you ever had to sell a house in which someone had died or that was haunted?

What kind of reactions do people have?

Does this effect the sale of the house? How?

If people are bothered by this is it universal?

Does the type of death matter?

Does the fact of this occurrence (either death or haunting) alter your approach to the sale of the house?

Do people ever buy these homes knowingly and then decide they can't live with the fact that someone's died there?

What's your view on such places?

How far back does death impact a purchasing decision?

Do houses get reputations?

Are there houses you just won't list because of something that happened to them or because of their reputation?
Do buyers ever ask about hauntings?
Do people ever express emotional reactions to houses?
When buyers are bothered - why do you think that is?
Do buyers give reasons for not wanting to live where someone has died?
Have you ever had clients who wouldn't live in a house where there had been a death regardless of the circumstances?

As I stated before, this is only a general overview of the questions I asked. If I went in knowing an agent had had a certain experience—such as Ed,¹⁰ who was unable to sell a house where a murder had taken place because he was listing it during the trial—I approached the situation differently. Furthermore, as in any interview, some questions elicited responses which led me to queries which had not previously crossed my mind.

Unfortunately, it was somewhat difficult to find agents who had had experiences of the sort I was looking for and more importantly, in my particular bias, was expecting; that is, violent deaths which had led to fears of ghosts or actual spirit

¹⁰All names of informants and their associates are pseudonyms, just as all street names and numbers have been deliberately left out to avoid revealing any information which may harm a person or property value in the future.

manifestations. Over time I was referred by agents to their fellows, who, though they had almost never encountered apparitions, had found themselves in situations which were far more pertinent to my research. It was in this fashion that I located the aforementioned Ed.

The same has proved true in my interviews with (potential) homeowners. I located these people through friends and references from real estate agents, as well as simply interrogating my own acquaintances on their beliefs and reactions. Despite my encounters with the business end of the industry, I expected more narratives of ghosts, or at least fear of them, than how people felt. I began with a series of preconceptions on what the reactions of my informants toward living in a house where someone had died would be. These were based primarily on the popular culture image of haunted houses fostered by the modern horror movie industry and similar enterprises. I was fully prepared to meet a large number of people who, irrespective of their own personal experiences with supernatural phenomena, would refuse to live in a home where a death—particularly a

violent one—had taken place. It is true that I encountered a number of people, real estate agents and buyers alike, who expressed tendencies along this line. I was, however, quite surprised when I determined that while a substantial percentage of my informants expressed a greater or lesser reluctance toward living in a house where someone had died violently, better than half were not disturbed by natural deaths. Further, while I encountered several informants who had been influenced by popular culture images, they were neither affected to the extent I had expected, nor were there as many who based their decisions on such imagery.

With homeowners or potential homeowners, my questioning initially attempted to follow a similar pattern to the one I used with real estate agents. However, as I was frequently approaching informants with the awareness that they had had experiences pertinent to my research interests, the interviews were generally specifically tailored to that encounter. Outside of individual adjustments, I felt it pertinent to have a general outline of questions with which to proceed.

Personal Interview: Sample Questions

Would you (have you ever) live(d) in a house where someone had died?

Why or why not?

Would you ask before you bought/rented?

Would it matter if the person died violently or peacefully (suicide, murder vs dying in one's sleep or due to illness)?

Do you believe in ghosts/spirits/something left behind after death?¹¹

These questions would lead to detailed answers, further questions, both, or no reaction whatever, depending on the experiences of the interviewee. For those who had experiences in a house where someone had died, or who encountered a ghost, I would attempt to let them relate their experiences with as few questions as possible from me, so as not to interrupt the flow of the narrative. Ultimately, I found that a strict set of questions was far less useful in this type of interview than with real estate agents.

While I did not confine my research solely to St. John's, this

¹¹I did not specifically ask about hauntings as the other questions I was using tended to elicit such narratives if my informants had them, and I became afraid of unduly biasing the interview, in that such a line of inquiry could easily lead the interviewee to put all other considerations than death out of their minds.

locale is a particularly interesting area in which to do this type of research. Being the oldest city in North America, it has seen more than its share of death and much of that in the home. While two major fires in the last century destroyed most of the downtown, thus removing many of those homes from the area of investigation, there remains a significant history of people for whom hospitals were either not an option or not part of the tradition of when it came to dying. Due to the longevity of many homes, particularly those in the downtown which survived the fires, my real estate informants were often able to list more than one death in the history of the homes they sold. Indeed, an informant who was house-hunting at the time I interviewed him refused to live in any but the newer parts of the city in order to avoid just such history.

Therefore, anyone house-hunting in St. John's and similar cities has a better than even chance of buying or renting a home in which someone has died. Though the majority of those deaths may have been natural, for some that will have been more than sufficient inducement to look elsewhere for housing. The

following chapters examine the reasons for this intersection of belief and action.

Chapter 2

Real Estate Law

". . . that's just life, we all live to die, and you're gonna die somewheres." Ed, St. John's Real Estate Agent.

The above is a simple enough statement, yet where and how someone dies have a detrimental effect on the perceptions of those who use the living space afterwards. In recent years the

real estate industry in the United States and Canada has been increasingly aware of the negative effect a death in a home can have on that property's resale. This knowledge—conjointly with other non-physical problems—has received a growing share of the attention devoted to coping with the differences in the perceived needs of buyers and sellers.

That death, especially a violent one, can decrease the value of a house is no secret to real estate agents. As Eric told me: "And it would you know? Its hard enough to sell a house when everything's fine, so there has to be some advantage to buying it." In addition to monetary concerns, there is a long folkloric tradition regarding the long-term effect of violent deaths in homes, specifically stories of ghosts and haunted houses.¹² The legal complications that traditions and beliefs regarding a home's history can create have rarely been addressed before the last decade or so. During recent years, however, a small number of cases have had a noticeable impact on the collective awareness of the American and Canadian real estate industries; and, while the

¹²Which will discussed in a later chapter.

present situation seems more an inevitable result of the demise of the rule of caveat emptor than a radical shift in policy, I would venture to state that the factors agents feel they must take into consideration have changed considerably.¹³

The issues to be covered in this chapter are the various ways that expressed and unexpressed beliefs about death affect decision-making regarding home purchase as seen through changes in real estate laws and policies. I will achieve this by looking at past and current real estate law, extant legal cases, and interviews with real estate agents, home owners and potential-buyers.

I suggest the perceived or actual effect of death-beliefs on purchases has influenced the legal and mental framework of the real estate industry. An awareness of the legal ramifications of the psychological livability of a home in addition to its material condition lies behind a number of legislative and policy changes which have taken place in recent years. Though much of the

¹³The changes begun by a pivotal case in 1983 have levelled out, though by no means stopped and while unlikely, it is possible the end product will be something far different than what we have now.

impetus behind the changes taking place must be seen to be the "increasingly litigious climate of real estate": ". . . the fact is that everybody says, '. . . The living room isn't the color of blue that I thought it was. Let's sue the broker'" (Bleasdale 61). Yet there is more than frivolous greed behind many decisions to sue, back out, or otherwise alter the conditions of a sale, at least in the minds of buyers viewing properties which have been the site of one or more deaths.

Any discussion of the psychological livability of a home must be foregrounded in an understanding of certain other changes real estate has gone through in the last two decades. Real estate sales in the United States were originally governed by the policy of *caveat emptor* ("buyer beware") which left a buyer largely responsible for determining the condition of the home in question. Furthermore, unless the seller or agent lied regarding physical damages, there was little legal recourse, let alone consideration for what are now termed "psychological defects" which might not devalue the home physically, but could have a definite impact on a buyer's perception of the home. However,

according to the *Real Estate Law Journal*:

. . . The laws relating to disclosure in residential real estate transactions have been continually evolving, partially in response to the lobbying of special interest groups. While the law originally placed the burden of finding defects in residential property on the buyer, over the years the burden has shifted to the seller and the real estate broker to disclose known defects. (292)

The impact of the aforementioned changes has been a steady altering effect on the industry regarding disclosure laws. Marianne Jennings, in her article "Buying Property From the Addams Family," cites several court cases from 1981 and 1983 indicating that: "Judicially, the obligation to disclose has existed for some time"(Jennings 51 and notes). Further, according to the *Loss Prevention Bulletin*: "As of November 1993, 19 states have passed legislation or regulations mandating the use of property disclosure forms . . ." (1). Buyers are still encouraged to hire an inspector and never to take anything for granted, but the existence of such documentation provides legal safeguards for both buyer and seller.

However, material disclosure only relates to the physical condition of the home without approaching the potential for psychological damage from any number of sources. Regardless of the inconveniences in time or money for the seller, if a buyer refuses to close unless a leaky roof is fixed, it is a concrete problem with a concrete solution. There is no real question as to why the leak may pose a problem. Psychological damage to a house is a far more subjective issue.

In 1983 the first case of note regarding what was soon to be officially called stigmatized property went to court in California, inducing a ripple effect throughout the entire real estate industry:

In Reid(sic) v. King, an elderly woman, Dorris Reid, purchased a house from Robert King. Neither Robert nor his agents . . . advised Dorris that a woman and her four children had been murdered in the house 10 years prior to her purchase of the property. Dorris learned of the murder from a neighbor after the sale had been completed. She sued Robert and his real estate agents for rescission of the sale and monetary damages.

The trial court granted both Mr. King's and the real estate agent's motion to dismiss. It did so on the basis that the murders could only be deemed to effect the value of the property if they were then presently the

object of community notoriety. Unfortunately the California Court of Appeals did not see the situation the same way . . . it concluded that Ms. Reid should have an opportunity to prove if she can that a decade-old, multiple murder had a significant effect on the market value of her property. She was given the opportunity to prove that although she bought the property for \$75,000, it could only be sold for \$65,000. . . . (McClelland 12)

When one considers the way in which Ms. Reed learned of the history of her home it seems, that the issue of community notoriety was indeed a pertinent one. Jennings notes, "When she [Reed] moved in, the neighbors appeared and explained that the home was really worth only \$65,000 because of its stigma"(Jennings, 45). The neighbours could just have easily appeared while she was viewing the home and cost Mr. King the sale. Whether Ms. Reed was uncomfortable with the home's history or not has never been discussed in the information I have found, but that both she and her neighbours were aware that some buyers would be, seems unquestionable.

If Dorris Reed's lawsuit was the truly the first in North America regarding non-physical damage cannot be determined in the scope of this thesis. It is however, a pivotal legal precedent.

Not only did it lead to the institution of a new kind of disclosure law in California, it is the most often cited case in both the United States and Canada when discussing situations of this type. Ms. Reed's situation and her reaction thereto were part of the opening of an entirely new area in real estate law—"stigmatized property law", which did not exist as a legal genre until sometime after her court case. This type of legislation/policy pertains to non-material damage a property may have incurred in its history. Specifically:

Stigmatized or psychologically impacted property is real estate that may have a reduced value, or be less marketable for emotional or psychological reasons, despite the absence of any physical impact. Examples of stigmatized property include property where traumatic events have occurred (murders, etc.); rumors about the supernatural (haunted); former owner's health - AIDS; and other rumors or speculation about property which have a psychological effect. We are dealing with fear, not physical defects. (Klein 15)

Despite the number of folklorists that have dealt seriously with ghosts and haunted house belief and narratives (c.f., Hufford 1995, Jones 1944, Bennett 1987, and Creighton 1957) among others, none have noted the impact on real estate law. Even those,

such as R. C. Finucane (n.d.; 1982), who noted how individual cases effected valuation, did not predict any alteration of statutes. Clearly, however, such laws signify the centrality of such beliefs` in home purchase decision making.

Not only can stigmas take almost any form, they can have a sustained effect on the psychological livability of a property, resulting in anything from reduced value to demolition. For instance, when, in the summer of 1995, Paul Bernardo and his wife went on trial for kidnapping, then raping and killing two young girls in the basement of their Ontario home, the overall reaction was shock and horror. The recoil was so intense that in September of 1995 the mayor of St. Catherines recommended the house be torn down:

The mayor of St. Catherine's has urged the Ontario government to turn over convicted killer Paul Bernardo's former home to the city so it can be demolished by local contractors.

Mayor Al Unwin wrote to Attorney General Charles Harnick this week to request the transfer of the pink house, now owned by the province, where teenagers Kristen French and Leslie Mahaffy were murdered. . . .

Several other contractors have also offered to help obliterate the physical reminder of the horrific crimes

recounted in Bernardo's trial this summer. (*Evening Telegram* 12)

Property existing under such an onus is of great to concern to real estate agents and poses obstacles unique from, and sometimes far more difficult to surmount, than those associated with material defects. Such problems are due in large part to the ambiguous nature of the issue, as different buyers may have dissimilar reactions to the same circumstances. There are, indeed, an infinite number of things which can negatively effect a property, as demonstrated by these comments from an article called "Killings in Real Estate":

Is there any property anywhere that won't trigger some fear in some buyer? . . . so clean of structural deficiencies, psychological defects or paranormal problems that any sales associate could point to it with confidence and say:

"There is nothing to disclose about that house." . . .

No longer is it just material defects . . . that must be disclosed, but also the presence of ghosts, the violent deaths of previous owners, whether the house is upwind from the nearest nuclear power plant or downhill from the nearest toxic waste site.

It seems as though sales agents must interrogate sellers into confessing every conceivable inconvenience about a property—while brokers working with buyers

must grill them into admitting any fear, phobia, quirk, peccadillo or peculiarity that might someday reveal itself in the form of a lawsuit. (1)

This perspective is confirmed by real estate agents in St. John's. When asked whether they must disclose death to prospective buyers, one agent replied that it was vital to share: ". . . anything about the property that may effect the person's perception of it." (Sam, Agent Interview #10) Unfortunately, different aspects of the property will not effect all perceptions in the same fashion. With the problem of what to disclose and to whom, come added difficulties for the seller, who may face an insurmountable task to "fix" the problem. Bill Mundy states in "Stigma and Value": "From a mathematical perspective, damage should equal the cost to cure." (Mundy, 8). Such an equation begs the question of just how much it would cost to "cure" a death or a ghost?

One agent proffered the following example of the difficulty in determining which aspect of a property's history will effect

which buyers:¹⁴

What is stigma for one may not be stigma for another. . . Say for example, that there was a house at the end of town that was a house of prostitution some years ago. Is this a stigma? To some people it might be okay. But it may matter to the new minister who is thinking about buying it. (Tomecek 32)

This analogy can be taken one step farther, in that it is possible the minister might be inclined to forgive the sins which were once perpetrated under his roof, but his flock may find themselves having a hard time trusting a man of God who lives in a former house of ill repute. While the specific analogy of parish disapproval is not one I have come across, I include it in order to exemplify the diverse nature of stigma. Because stigmatization is in the eye of the beholder, it may behoove a purchaser to take into account all potential eyes, particularly if, as in the case of Mrs. Reed, (s)he has plans to resell the house in the future. Thus, non-physical damage may have potentially long-term effects on

¹⁴Most of the circumstances which can sitgmataze a property are beyond the scope of this thesis and will be referred to only to provide examples or for their use as comparisons. High crime rates, airports and toxic waste are all problematic in nature, but are rarely grounded in belief.

the house without ever physically marring it. In the specific case of death-related stigma, the notoriety may stay with the house longer than even that of a bordello.¹⁵

Another dimension of stigma which buyers must take into consideration is that of rumour, such as Dorris Reed met when she purchased her California home. Infamy can keep the memory of a crime alive long after a less-noteworthy event might have faded, thus affecting both buyer opinion and resale price. A prime example of this sort of longevity was provided to me by Ed, an agent who was unfortunate enough to list a house which was the site of a murder while the trial of the accused killer was being held:

Ed: . . . fellow who killed his wife.

Julia: I keep hearing bits and pieces about this.

Ed: Now I didn't sell the property at the time but I had the property listed, of course that's when the trial was ongoing and everyday the specific civic number was being advertised, was being mentioned in the newspaper and that of course, killed everything. Literally.

Julia: What were people's reactions to it?

Ed: Well actually I had no viewings during that period of time and eventually I did lose the listing and it was off the market for awhile, from there was another agent that

¹⁵Rumour and notoriety will be discussed in a later chapter.

picked it up in another office and that strip of housing is also known as ___ Row . . . Next time it was on the market it was advertised as being ___ Row and it eventually did sell. (Agent Interview #5)

Thus, the issues surrounding a house stigmatized by violent death are two fold: the buyer's own fears and beliefs regarding the death, and how the event may effect the perceptions of future purchasers. The forms of these circumstances, and the ways in which they play out, will form the first part of this chapter. The second portion will be devoted to a discussion of how the various cases have effected real estate law, mentality and practice in the United States. The third section will outline the Canadian real estate scene, inclusive of the differences and similarities therein.

Death

As I have previously stated, real estate agents on the whole seem to agree that violent death will more often than not cause some perceptual/monetary damage to a home.¹⁶ As Marianne Jennings (USA) states: "Death seems to be a troublesome thing for

¹⁶ Perceptual damage which applies equally in Canada and the United States.

most people." (Jennings 45) and clarified in a footnote: "Well, it's no trouble for them once they're gone. It's troublesome when you remain alive but someone died in the property you're thinking of buying." Jennings's impression is confirmed and illustrated by Sharon Kimball Tomecek (USA) in "Marketing Haunted Houses" where she notes: "We know that some people are bothered by a suicide; they might hear floor boards creak in the house and think it's a ghost . . ." (33). Susan Gamble (Canada) corroborates: "Murders, an older person dying and not being found for some time, and infamous criminals can drag the price of a home down, along with the possibility of actually unloading it" (17).

The real estate agents I interviewed agreed with such assessments, despite most having differing opinions on precisely how great the impairment would be and which circumstances were most likely to cause buyers to shy away. In response to questions regarding how violent death in a home they were listing affected the sale, Newfoundland agents provided me with similar answers. Some found violent death to be a tremendous impairment:

Sam: Doesn't really effect the sale as such, people just won't buy it as a general rule, they are concerned if somebody died in the house through anything other than natural causes. If somebody hung themselves or if it was a violent death then that effects how people will perceive the property. Then again that will have a drastic effect on the price and trying to sell the property. (Agent Interview #10)

Dave: Yes, I think there's a different attitude generally if it's a violent death, either suicide or otherwise you know? There was a house up on __ Road a lady committed suicide in about four years ago, four or five years ago and she was a young person, thirties or thirty-five or something and she was very active in the community, I think in the women's movement. Anyway she ended it all one day and I think she, she did it fairly gruesomely, she shot herself in the mouth or stabbed herself or something like that. Anyway there was a lot of blood, now that house changed hands a couple of times, there was a rather bad feeling about it. I think generally, the town is fairly old, in most older houses there have probably been somebody die and it was probably just taken as a matter of course if it was a natural death. Or a death by age. (Agent Interview #2)

Eric: Yeah but I don't think you have to stress it, a normal death, natural death I don't think it would even be a factor. I think the only thing that would become a factor in the sale of a house related to death that would become a factor relative to death would be a suicide. . . .

Susan: I hear like some people who know that somebody who was murdered in the house, a lot of purchasers are very reluctant to buy that particular property. (Agent Interview #8)

Jenny: but I had a house down on . . . __ Street where a gentleman was murdered and that really effected the saleability. No one would buy it because it was a murder in the house. . . . We took it off the market, we leased it. And he dropped the price considerably lower than it should have been but couldn't even get a look at it. . . . People just will not buy a house with a suicide in it. (Agent Interview #9)

Joan: There's a house on __ Street, more recent times. And there's a note of apprehension there. A husband killed his wife. And so the market perception is to an extent, coloured right now. . . . [To] Some one it makes no difference, but some buyers in the market, they'll shy away from it. (Agent Interview #16)

Other agents, though cognizant of the issues surrounding violent death in a home, had somewhat different perspectives and/or experiences:

Scott: Listen, I tell ya, my opinion is this, is that if the price is right, regardless of what happened there there's a buyer out there for it. There's a buyer out there for everything. Regardless of the circumstances surrounding the nature of the death at this particular home, there is a buyer for it. (Agent Interview #4)

Adam: No and we haven't say, or . . . a great decrease in price or anything at all no. I think the people today it's not really a bother to and they go ahead and see what they can do with the home. And if there's no sign of anything like blood or anything, . . . (Agent Interview

#7)

But even the agents who had never dealt personally with a stigmatized property, and as a result were skeptical of it, appear very much aware that death can be problematic, as evinced by Adam's comment regarding signs of blood, indicating that in more "normal" circumstances, the sale might have been gone off more easily.

Potential buyers, too, when approached with questions regarding their feelings toward death in a house they were viewing or had already purchased, had similar but varying reactions, almost always gravitating toward violent death as the source of their hesitations:

Jeff: I have had two personal experiences where houses were for sale in which people had died. Case 1: The person committed suicide. Although the house was pretty cool looking and reasonably priced, I had this irrational sense of something—not sure what—but I wouldn't even go look at it. . . .

I suspect I would feel the same way if someone were murdered in the house. Something that awful happens there and I know about it, it'd bug me a lot. Case 2: Where an old lady died. Totally different—looked at the house—would have bought it but it wasn't what I was looking for. Someone dying of natural causes like old age

isn't bothersome to me at all. I can't say I'd want to buy the bed she died in or anything. . . . but the house—would be fine.

Peter: I guess it would depend on how they died. What it comes down to for me is the idea of a horribly bloody death, regardless of whether it were murder or suicide.

If someone just took some pills or gassed themselves, it probably wouldn't bother me. If it were a bloody death— intentional or not— that would probably bother me. Just the idea that they would probably never be able to get all of it up.

Just as not all real estate agents experienced problems with homes wherein deaths took place, not all buyers or potential buyers had issues with violent deaths in the homes they were viewing. One of my informants had not only purchased a home which was the site of a suicide, but later discovered the house to be haunted and was calm to the point of indifference about his purchasing decision:

Julia: Did you know that someone had shot themselves in the house when you bought it?

Brent: I think so.

Julia: And that didn't effect your decision to buy it?

Brent: (Shook head) no. (Personal Interview #17)

Whereas another man I spoke with took his discomfort to the opposite extreme, refusing to buy a house where any kind of death took place. His reluctance was so intense, that in an old area like St. John's, where the odds of someone having died in the home at some point in its history are relatively high, he would only consider newer homes where he could ascertain that no deaths had taken place:

Ben: . . . right now I'm looking for a house and Sarah knows, for instance, if she says "there's a house out on empire Avenue," I happen to know its fifty, sixty years old. First thing I'll say to her is "Who died in it? How did he die?"

Especially here in Newfoundland. . . . twenty years ago, twenty-five years ago, when anybody died they waked 'em in the home. Now you've got a house that's a hundred years old, or a house that's 75 years old, you know there's actually been a lot of people who waked in that house.

Julia: And that's gonna bother you?

Ben: It bothers me that much that I really don't want to have anything to do with the house. (Personal Interview #12)

Out of 51 interviewees, 27 were more or less comfortable with living in a house where someone had died a peaceful death; but they were against living in a house where a violent death such

as suicide or murder had taken place and would refuse to close if they found out before purchase. Three refused to live in a home where anyone had died for any reason, Ben even stating that in the case of a bad death: "if it was something wrong I'd know, if it was a thousand years ago" (Personal Interview #12). Four were unhappy with living where a violent death had taken place but would not take extraordinary measures to avoid it. Seventeen did not feel that any kind of death presented a problem for them, though even that statement was often accompanied by some sort of proviso that there be no blood on the walls. In an interesting side note, most said that until I interviewed them, it would not have occurred to them to ask whether someone died in the house they were viewing.¹⁷

Exemplifying these figures are a number of specific instances, while not making it as far as the courts, wherein notably violent deaths affected sale and price enough to make it

¹⁷This type of comment makes it very tempting to go into a long digression about how the power of suggestion can influence emotive reactions. Suffice it to say that I am hopeful I was not responsible for changes in beliefs or perceptions on the part of my informants but that it would be most interesting to do follow-up interviews on the next house-buying decision on each of their parts.

into the papers, or at least the general awareness of the real estate industry. These are situations where sellers faced a drastic reduction in price, went for years without an offer, and the property has passed through a great number of hands or ultimately proved unlivable, such as the already noted Bernardo house.

Just as Reed v. King is a case that most U. S. real estate agents seem to have some awareness of, in St. John's there was always one house mentioned by local agents. Whether they had had any personal dealings with it or not, the house on ____ Road, (where a young man killed his parents around Christmas time), has affected real estate agents and how they marketed properties nearby. Agents I spoke to were very conscious of both location and crime; one agent even mentioned that every time he showed a house on that particular street, clients asked him if it "was the house where the kid killed his parents" (Jerry, Agent Interview #15). It may be of interest to note that none of my informants who did show the house had any luck selling it.

While actual commentary on this particular house varies,

the spirit of reticence remains fairly constant. The general history of the event and its effect is easily summed up by a single statement:

Dave: Well I recall there was one out on ___ Road where there was a family, a young family there, the father and mother and I think there was a daughter there and a son. The son had some kind of a problem and anyway he came home one day and he shot his, murdered, his mother and father and then he just sat there and waited for his sister to come home and got on with his life. Now that house has gone through two or three different changes of ownership since, but it certainly reflected on the purchase price when people found out that there was somebody in that, particularly because murder is still kind of a shocker here. And within the family. Y'know its kind of unusual circumstances, that sold quite a bit below market value although not as low as I would have thought it would have been. At the time they were selling the houses 'round there were selling for about a hundred-thousand, I think this one was for about eighty-five. It was on the market for a long time. People feel, feel badly done by if they buy a house like that around here and it hasn't been told to them, it hasn't been disclosed. (Agent Interview #2)

Further, it appears that in cases such as this one, where the murder itself is of a shocking nature, (and perhaps a little too close to home), agents have strong personal reactions in addition to their professional ones:

Scott: I think that uh, really suicide, it's not gonna have a great effect on the value whereas there was house on ____ Road where a guy killed his parents . . . That has changed hands I think on a number of occasions but the detail I couldn't tell you. . . . Y'know I wouldn't buy that house. From a standpoint of value um, y'know, that's a house that would be adversely effected. (Agent Interview #4)

Sarah: Terrible, couldn't stay in the house. Down on ____ Road, both parents were killed by the son, I showed the property to a doctor from University, she felt absolutely nothing. I couldn't stay in the house.

Julia: So, in this case it was your reaction that was . . .

Sarah: Terrible.

Julia: Have you had that reaction in other houses?

Sarah: No, but I have been in other houses uh, one house I sold in Mt. Pearl __Avenue, man hanged himself in the basement. And I actually walked over the drawing the police had there and I felt absolutely nothing. (Agent Interview #6)

While this house on ____ Road appears to have been the most disturbing to both agents and buyers, there are numerous others which have not only proved Dorris Reed's fears but have also invoked increased awareness of such fears among St. John's real estate agents. One property mentioned earlier was the site of a murder and eventually sold, but only after the way in which the street name was listed changed: Another was the site of a suicide

where the near-buyer was comfortable with the event, but was steered away from purchase by her father. The second narrative was given to me by Sarah:

Sarah: It's not something that's talked about very much, but it's funny how people are effected by other people's opinions. The house I sold in Mt. Pearl, where the man hanged himself in the basement, wasn't a problem, I had the sale done. Her father heard about it and he said "No you can't buy the house." And I lost the sale and they could literally walk away from the sale because of that. So it is important. (Agent Interview #6)

A third example comes from Jenny:

Now, I have an apartment building for sale, nine units, and there was three deaths there all in row, one died choking on something, another gentleman died of a heart-attack and a friend of two of them, took a bunch of pills, because he missed his friends so he committed suicide and I can't give that building away. (Agent Interview #9)

Other concrete examples of shying away from properties stigmatized by death appear in real estate publications and newspapers in both the U. S. and Canada. While none of the situations I am immediately discussing are indicated to have had

any direct legal ramifications, their appearance in such public forums as well as in real estate journals argues that the difficulties caused by death beliefs have made their way into the awareness of the general population and are far from isolated incidents. The first example was reported in the Greensboro, NC News and Record in 1995; after noting that: "because residential real estate purchases are often motivated by emotion, homes carrying a stigma frequently sell for less and remain on the market longer than 'normal' properties." The author goes on to discuss just such an instance:

Consider the rambling Sedgefield home where . . . Colby Malone died in a high profile October 1991 murder. Malone . . . was struck by a shotgun blast as she investigated an apparent break-in.

No one was ever convicted of the crime.

The slaying drove customers away from the otherwise appealing 4,441-square-foot-home, real estate agents say. The house, which was on the market at the time of the slaying, finally sold in July 1994. It fetched \$240,000—perhaps \$60,000 less than its normal market value.

"We had people who were interested but when they found out (about the murder) some were no longer interested," said . . . the listing agent. "The person who eventually purchased the house had no problem with it and to this day has no problem with it. But the people

who were interested and did not purchase, that was definitely one of the reasons." (Staff G1-2)

Since lowered value may be a universal given when a house was the site of a violent death, the buyer thus may view this as a positive thing, or at least the silver lining which makes the house bearable. For instance, in an article titled "Houses with dark side may have shining price," Pamela Reeves began by listing several examples of houses with notorious pasts, indicating that: "a buyer who can get past the psychological stigma often finds a good bargain" (71). The bargain itself sometimes seems to be a motivating factor in helping the clients to get over their fears:

The Chicago couple had been looking for a vacation house in LaPorte, Ind., and put in a bid on one they really liked. A few weeks later, when they received a copy of the local newspaper, they saw a picture of the house—with a body being removed through the front door.

They cancelled their bid, but several months later, when the house was still on the market, they submitted a much lower bid—\$55,000 lower—and got the house. (Reeves 71)

The connection of a good price with a home wherein a

violent death occurred can be used to the buyer's advantage, even when the buyer has no fears associated with living in close proximity to a death. As one of my informants told me:

Simon: My friend John was apartment hunting in Boston and found a great place that was way cheaper than the going rate, and when he asked why he was told that someone had hanged themselves in the living room. John didn't care but he hummed and hawed around and got them to lower the rent even more. (Personal Interview #8)

The situations I have just discussed were notable enough that they became community knowledge, very possibly expanding the folklore inasmuch as there is a general assumption that if something is a good deal, there must be something wrong with it.¹⁸ Thus, the lowering of the house's price because of a violent event fuels the belief that death damages a property and ultimately leads to situations such as John's being able to get an even lower price from an already good deal.

¹⁸This type of reaction can be seen in the classic story of the "death car" which is sold at an incredibly low price due to the previous owner's having died it. This death usually leaves a stain or smell that cannot be gotten rid of no matter what methods are tried, ultimately making the vehicle not such a bargain after all (c. f. Brunvand 1986 & 1990, Dorson 1959, McKelvie 1963).

On the flip side of this are properties for which any price is too high, such as the home owned by Paul Bernardo and subsequently torn down by the city. These are places in which the violence and media attention is too strong for the community at large to come to terms with. As Susan Gamble asked in reference to the Bernardo home: "Would anyone trust someone who chose to live there?" (17) It is not easy to determine which properties will effect the community's emotional state strongly enough to incorporate such actions; the house Dorris Reed bought had housed four bodies but the \$11,000 reduction was minimal in comparison to demolition. There are surely more grisly murders than those the two girls suffered, in houses that still stand; the condominium Nicole Brown Simpson was killed in recently sold for around \$600,000.¹⁹ Be that as it may, in certain circumstances, violent death can ultimately make a property unlivable.

Another case similar to the Bernardo property is the house where John Wayne Gacy killed and buried several young boys.

¹⁹In an interesting addendum to this particular case, O. J. Simpson's house—not the one Nicole was killed in, the one sold at auction to pay his debt—was recently torn down by the bank which purchased it. Whether this demolition was undertaken with his ex-wife's death in mind, it appears to already be associated with it in the minds of the public.

This house was ultimately demolished²⁰. In California a noteworthy property is currently up for sale: ". . . [the] mansion where 39 members of the Heaven's Gate Cult committed suicide . . . some local businesses have expressed interest in buying the property, at a cut rate, to pull it off the market before it hinders the value of near-by property" (Guly 3). Whether that particular property will be demolished or even become a tourist attraction has yet to be decided, but it is unlikely either prospect would be under consideration were the property not causing some emotional distress. The list of unmarketable properties also includes:

The Los Angeles house where Sharon Tate and six others were murdered by followers of Charles Manson 26 years ago was recently torn down and replaced by a new house. The Hamilton Township, N. J. house where 7-year-old Megan Kanka was killed by a convicted sex-offender was also razed and a park is planned on the site. (Staff G2)

It is highly possible that this list will someday have added to it the home in Boulder, CO where Jon-Bennet Ramsey was molested

²⁰A&E Special "Haunted Houses," Oct 31, 1996.

and strangled. 21

Having attempted to cover a microcosm of the spectrum of reactions to death in a home, I will now discuss the few situations I can locate where the parties involved have taken their grievances to court and begun the process of codifying the effect belief may have on buying decisions.

Legal Cases²²

Though Reed v. King is arguably the most cited legal case, there have been a few others of varying notoriety. Each case has had its own impact on the real-estate industry's policies and awareness, not to mention legal ramifications. Marianne Jennings notes that as of 1993, there was a case in California:

. . . pending appellate review, the buyers of a San Francisco Mission District house sought to rescind their contract because the sellers had failed to disclose that their son-in-law had allegedly committed suicide in the house. The buyers were Chinese-American and believed

²¹The house is currently up for sale, but without any legal expertise, it seems highly unlikely that any sale can be made until after there has been some closure to the case. My personal opinion is that it's marketability will be directly related to whether the suspicion resting on the parents proves to have any validity.

²²The texts of these decisions can be found in the appendices.

that the death would bring bad luck to the house. (46)

In "Disclosures in Real Estate Transactions," Stuart Safine discusses what may be a coincidentally similar case (or the same one with an error in details), in which he observes:

There has even been a case regarding a San Francisco property, in which an Asian family purchased a home in which someone had been murdered. Even though obviously there was nothing that could be seen that would leave any indication that there had been a murder in the house, the court ordered a rescission of the sale based upon the failure to disclose the fact of the murder.
(2)

Cases of lawsuits for reduced property values due to violent deaths are not isolated to the United States. Despite being far less prone to lawsuits as a rule, Canadian buyers appear just as willing to go to court when provoked. In 1991 an issue of the Edmonton Sunday Sun noted just such a provocation:

A newlywed couple's first home turned into nightmare acquisition after they discovered it had been the scene of one of Edmonton's grisliest murders.

[The couple] bought the home in May for \$86,000. Two months later they were horrified to learn that

Edmonton mom Susie Kaminsky had been murdered in a basement bedroom.

The home, . . . was once owned by__ the mother of convicted killer Roy Sobotiak. [Sobotiak was found guilty of strangling Kaminsky in the basement of his mother's home and then taking the body to his apartment where he dismembered and threw away the corpse.]

[The couple] say the vendor, [listing agent and selling agent] should have told them about the history of the house.

The \$19,000 they are seeking in damages represents the difference between what they paid for the house and the best offer they have been able to get for it, plus \$12,000 spent on renovations, legal fees, and other expenses. (Philip and Olsen 18)

Haunted Houses, Sales, and the Law

It is virtually impossible to discuss death in houses without involving ghosts. Up to this point I have not done so for two reasons. Firstly, ghosts have had little actual impact on the legal side of the real estate business. Unfortunately for those who fear or are tormented by them, even successful suits regarding ghosts tend to invoke amusement as much as anything else. Secondly, this is a thesis on death and real estate and not about haunted houses, and while my research has turned up any number of older stories of houses haunted by those who died in them—particularly

violent deaths—there appears to be less contemporary correlation between the two. Of two recent legal cases involving haunted houses, only one had any apparent relation to death, and few haunted house narratives I was able to cull from my informants had traceable connections either.²³

However, ghosts are inseparable from the fears associated with death in a home, and haunted houses have made their way into courts, newspapers and real estate writings. Thus, the subject warrants attention. As it is at a slight remove from the other aspects of death's effect on property sales, I felt it made sense to discuss hauntings separately from the issues of death so as to provide for better comparison.

The most notable modern case dealing with a haunting is that of *Stambovsky v. Ackley* in Nyack, New York. Although the case did not have a lasting effect on the legal system, it has created a stir and deserves detailed attention:

In this New York case, Jeffery Stambovsky contracted to buy a lovely, large home in the village of Nyack.

²³I am glossing over the subject here as it seems the larger issues involved are better left to the chapter on hauntings.

Stambovsky was a resident of New York City and not familiar with Nyack folklore. Apparently, according to the seller, the local press and *Reader's Digest*, the house Stambovsky bought was possessed by poltergeists and spectral apparitions. Both the seller and members of her family had seen these parapsychic or psychogenic phenomenon. In fact, the house was included in a five-home walking tour of Nyack and described in the ads as "a riverfront Victorian (with ghost)." Neither the seller nor the real estate agents were moved by the spirit to disclose the home's history, and when Stambovsky discovered the home's unique qualities, he was horrified and sought rescission.²⁴ (Jennings 47)

Gregory McClelland, legal council for the Michigan Association of REALTORS at the time of writing, carries on the story of *Stambovsky v. Ackley* where Jennings left off:

The Stambovsky Court found that the buyer had not alleged facts showing active concealment on the part of the seller. Each party was represented by independent council and the transaction was at arm's length. Thus, the seller was under no duty to reveal her beliefs with respect to ghosts inhabiting the home. . . Finally, due to the buyer's default under the contract, he was found not to be entitled to a return of his \$32,500 downpayment. (6)

In 1991, the case was appealed with a somewhat different result

²⁴In this case, the return of a \$32,500 (US) downpayment.

from the original. I felt it important to include both aspects of the case, as in addition to being somewhat unique in its stance of declaring a house legally haunted, it acts as a microcosm of the steps the real estate industry is taking away from total reliance on "caveat emptor".

On July 18, 1991, the New York County Supreme Court, Appellate Division, decided:

Purchaser of home brought action against vendor and broker for rescission and damages. The Supreme Court, New York County, Lehner, J., dismissed, and purchaser appealed. The Supreme Court, Appellate Division, Rubin, J., held that: (1) vendor was estopped to deny existence of poltergeists on the premises, so that house was haunted as a matter of law; (2) equitable remedy of rescission was available; (3) vendor who had undertaken to inform the public at large about the existence of poltergeists had a duty to inform purchaser; (4) haunting is not a condition which can and should be ascertained by reasonable inspection of the premises; but (5) there was no cause of action against the broker.

Affirmed as modified.²⁵

Despite the partial victory for Stambovsky, the court which had sided with him could not help but poke fun at the situation. In

²⁵J169 A.D.2d 254, 572 N.Y.S.2d 672 Jeffrey M. STAMBOVSKY, v. Helen V. ACKLEY and Ellis Realty, Supreme Court, [NY]Appellate Division, First Department, July 18, 1991.

the text of the court decision is found the following:

[7] . . . Applying the strict rule of caveat emptor to a contract involving a house possessed by poltergeists conjures up visions of a psychic or medium routinely accompanying the structural engineer and Terminix man on an inspection of every home subject to a contract of sale. It portends that the prudent attorney will establish an escrow account lest the subject of the transaction come back to haunt him and his client—or pray that his malpractice insurance coverage extends to supernatural disasters. In the interest of avoiding such untenable consequences, the notion that a haunting is a condition which can and should be ascertained upon reasonable inspection of the premises is a hobgoblin which should be exorcised from the body of legal precedent and laid quietly to rest.²⁶

While the actual statement seems to say that it is reasonable

for a vendor to inform a potential buyer of his or her belief that

²⁶The apparent need to react with humour to the possibility of hauntings as well as the way in which death stigmatizes property is evident in other aspects of my research. Many of the articles had titles in keeping of the spirit with Marianne Jennings' "Buying Property from the Addams Family," which, incidentally, was a humorous look at the subject of stigmatized property. "Selling Jack the Ripper's House," "Seller Must Unshroud Haunted House," and "Who You Gonna Call?" are but a few. The mention of actual haunted houses, or even genuine — rather than hypotheical — cases of property being stigmatized through death or ghosts was rare in every article but Jennings', despite the catchy names. Why this humorous tone is so prevalent is not clear unless it is an expression of the official culture's discomfort with the issue and reaction to declaring a house "haunted as a matter of law" in a time and place where official culture denies the existence of ghosts. Whatever the reasoning, comments from other sources on this case have been similarly dismissive, which may be why there is little litigation from people who find themselves in haunted houses and want out of the deal.

the property may be haunted, as ghosts are a highly subjective phenomenon and not amenable to the standard rules of common sense and inspections, implicit in the wording is a general disapproval of the entire issue. The image of a medium accompanying other inspectors and the use of words like "hobgoblin" and "exorcised," indicates a feeling that a suit over the presence of ghosts is a frivolous exercise.

It would, in fact, be very difficult for a buyer to prove that he or she had unwittingly purchased a haunted house. The unpredictable nature of ghosts, accompanied by the legal standard of what a "reasonable man" would consider proof of a haunting, would make for an almost impossible case without spectacular evidence.

Incidentally, Canadian reaction to this incident was less than enthusiastic as well. In her article, "When representing a vendor can be haunting experience," Kathleen Griffin notes: "[Paul] McCarten, of Borden & Elliot says Ontario judges would not likely put up with cases of this sort, as they're generally not given to rewarding such 'sensitive natures'" (N. pag.). Again, implying that

it would require the most stringent proof of the presence of ghosts before such a suit would be considered credible.

Some of the reasoning behind such mocking attitudes toward those who believe or fear their new homes might have unwelcome tenants is expressed by David Hufford in "Traditions of Disbelief" ²⁷ where he discusses the widely-held cynical view towards the supernatural: ". . . that supernatural beliefs arise from and are supported by various kinds of obvious error." (47) It is this sentiment on the part of most of official culture that leads to difficulties in bringing suits, let alone winning them, if a seller has failed to disclose the presence of ghosts to a prospective buyer.

Despite the apparent disapprobation toward buyers who refuse to honour a contract due to the presence of ghosts, Stambovsky was not alone in his unwillingness to live in a haunted house. While more specific details regarding haunted houses, their causes and their effects, will be discussed in a later chapter, it seems pertinent to include two further examples.

²⁷*New York Folklore* 8:3-4 (1982): 47-56.

The first example is one which not only got as far as the courts, but wherein the plaintiff won her suit, thereby providing further justification that such lawsuits could become prevalent with all the attendant debate and confusion. This case also addresses the tenuous issues of proof, and seems to satisfy the courts despite its dubious nature:

There are other examples of ghost occupants wreaking havoc, such as the Hebron, Connecticut landlord-tenant case in which a tenant recovered damages from the landlord for renting haunted house to her. The tenant . . . had hired Ed and Lorraine Warren, nationally known "ghostbusters,"²⁸ as her experts; they concluded that there was a "confused, somewhat frustrated human spirit in the house." Also, Rich had photographs of a pink haze at the top of the stairwell and a blue haze over a candle that did not burn down. (Jennings 47)

While civil courts can be persuaded to accept the presence of ghosts and the discomfort they may pose to someone who is sensitive to their presence, there is not a great deal of evidence to indicate that the courses taken in the above examples have or will

²⁸The Warrens were pivotal players in the Amityville Horror saga and, despite doubts about the veracity of their claims and the efficacy of their methods, maintain that the horrific haunting truly took place.

become common, especially as more and more agents feel it behooves them to disclose this information before-hand, giving the buyer time to back away from the deal before they have committed themselves. A more likely response, if one finds oneself living unawares in a haunted house, is to simply leave at the first possible opportunity. This is precisely what the friend of Jenny's did when she found herself uncomfortable with the house she was occupying: "[She] . . . heard creepy things. In [her] mind it was haunted. [She left] because it was haunted and it was too small. . . . She'd heard a gentleman had died [there] who was mean."

Jenny's friend did not experience any visible or gruesome effects of a haunting, nor, apparently, anything that would verify her opinion to impartial observers. "Creepy" sounds and the death of a mean man do not normally constitute evidence, but that is unimportant. What is relevant to this discussion is that her perception was of a haunting, apparently related to, if not directly caused by, a death in the home she was occupying. This understanding was sufficient to help influence her decision to

leave, just as the ghosts in the previous examples induced the involved parties to sue—decisions which will, in some fashion, influence the awareness of the agents who may market these or similar properties in the future, regardless of any long-term legal consequences.

Legal Effects

In the years since Dorris Reed first set foot in her stigmatized home, some things have changed in the way real estate agents approach the types of properties discussed above. Many now feel it behooves them to acquire as much of the home's history from its current owner as possible, and/or have altered the way in which they query clients as to their preferences (even though some express frustration with what they feel their increased responsibilities might include to avoid complications later).

That much of this re-assessment takes place regardless of legal precedent may be due to the basic awareness of what could happen. However, there has existed and still does exist confusion

as to precisely what legal responsibilities are extant.

This confusion is present because laws are still being codified and vary from state to state (in Canada, the legal changes are just starting to take place). Many of the laws or policies have not been in place long enough for any serious challenges to have been laid. Furthermore, and possibly due to the apparent discomfort expressed in the phrasing of the court decisions and the use of humour, most laws do not deal specifically with the more ephemeral aspects—such as hauntings and death—of stigmatized property and limit themselves with more concrete areas. In fact, the legal effects have been far less radical than discussion up to this point may have indicated. Rather, the legal proceedings largely figure around the increased paperwork of disclosure forms and queries.

To reiterate the entire history of the legal process would be too complex and time consuming for this thesis.²⁹ Instead I will provide a synopsis of the most current information I have been

²⁹It should be noted, that as of 1995, only 17 states actually possess specific legislation regarding *material* disclosure, which may be another reason why the stigmatized property debate does not appear to be entirely resolved.

able to locate regarding policies within the states, as well as the aforementioned discussion of Canadian policy. The appendices contain more detailed information on the legalities.

Changes began in California where:

In July of 1985 the California legislature enacted the first statute requiring sellers of residential real property, and participating brokers, to disclose to prospective purchasers comprehensive information relative to the condition, value and desirability of the property offered for sale. ("What To Disclose About Properties With a Past" 13)

This move was followed by a succession of legal decisions regarding both psychological and material defects. Much of the resulting legislation has left the doctrine of caveat emptor in place with minor changes, such as recommendations or requirements regarding home inspectors. However, despite this, as of 1994: "About 25 states and the District of Columbia now have specific legislation. . . ." ("What To Disclose About Properties With a Past" n. a. 13) regarding stigmatized property. These laws vary in precisely which stigmas they apply to as well as whether the

legislation protects the buyer or the seller. For instance, according to the same article:

Laws vary, from addressing only AIDS to so-called psychological impacts. In 1987, California banned legal action against a seller or sales associate for failure to disclose that an occupant of a property has, or died of, AIDS. The law also prohibits legal action for failure to disclose any other deaths on a property that occurred more than three years before the transaction. (What To Disclose About Properties With a Past" 13)

Another example of the legislation which has arisen from growing awareness of the damage of stigma is the 1989 Oklahoma law which requires agents: "to be responsible only for providing a buyer's inquiries about a property to a seller in writing" (Roketenetz 31).

Ultimately, when not every state has as yet enacted laws relating to material property disclosure³⁰, it is impossible to expect that the stigmatized property debate will be settled any time soon. According to the authors of "Residential Disclosure Laws," however, despite the differences in legislation (and unless

³⁰see legal cite in appendices

the buyer specifically asks), "Sellers and their agents are not required to disclose psychological facts affecting the property, such as that an occupant was HIV positive or that the property was the site of a suicide or murder" (Pancak et. al. 305).

This is not to say that these official policies make the real estate agent's job regarding psychological damage easy or clear-cut. Despite AIDS being protected as a handicap under HUD policy, which states that there is no legal obligation to disclose,³¹ there is still debate among agents as to how a seller's illness should be approached by an agent. As the Canadian situation illustrates, neither policy, nor a lack thereof does not make individual cases any easier.

It has already been noted that Newfoundland agents perceive themselves as obligated to disclose non-material facts to the buyers, despite an apparent lack of official legislation or policy.³² Currently, the legal situation in Canada does not require non-material disclosure in any province (Taylor N. pag.) and has

³¹ Page 5 of the January 1994 issue of the "Greater Vancouver REALTOR", a publication of the Real Estate Board of Greater Vancouver.

³² Conversation with President of St. John's Real Estate Board and a real estate lawyer.

further recognized that: "requiring a real estate agent to anticipate and disclose information beyond that which is directly connected the property, imposes a prohibitive obligation" (Ibid). Moreover, specific legislation regarding material disclosure is a fairly new occurrence, but this specific lack has not prevented Newfoundland agents from behaving in the ways described above.³³ This may be in large part due to the code of ethics espoused by the Canadian Real Estate Association (CREA) which states:

ARTICLE 4: A REALTOR has an obligation to discover facts pertaining to every property for which the REALTOR accepts an agency which a reasonably prudent REALTOR would discover in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts. (CREA Code of Ethics)

In addition, there are a number of extant laws regarding innocent, fraudulent and negligent misrepresentation which can be seen to apply to material and non-material disclosure (*Canadian Agency Law* 73 & 77).

³³According to Cathryn Motherwell in "For Sale: House of Horrors. Cheap." Calgary instituted full material disclosure only in 1991 and in that same year BC was formulating such disclosure.

Thus, while the law is still being codified and debated in the various states and provinces, the general reaction appears to be an awareness of emotional responses to perceptual damages and their potential ramifications—and agents will react as they best see fit.

It should also be noted that a further reason behind the lack of full-scale legislation on this issue, is disbelief, not only the part of official culture, but the buyers as well. In other words, in addition to those who express trepidation at the thought of living in a house which meets any of the criteria I have discussed, there will equally be those who have no qualms whatsoever. They may well feel that genuine supernatural experiences are nonexistent, explaining away the encounters of other as the result of ". . . extreme physical and psychological stress" (Hufford 49) or other outside influences. By the same token, they are unlikely to feel that the dead leave behind any sort of influence, positive or negative, to impact on the living. Under this (dis)belief-system there would be no need to require sellers to disclose events which might lead "believers" to be uncomfortable.

The emphasis throughout this chapter has been on violent deaths. With few exceptions, the persons I interviewed, whether agents, potential buyers or persons who have had experience in houses, were undisturbed by deaths that fall under the rubric of natural; that is, death through illness or age or any other non-violent, unplanned means. As far as I can determine, those exceptions have had little effect on real-estate law as such. While they can, and do, influence the homes an agent shows to individual clients, or the questions said client may ask, it is usually within the context of violence that most of the concern seems to appear. Therefore, I have set such cases aside to discuss in the following chapter on death-beliefs and world-view.

Chapter 3

An Examination of Death Beliefs and Their Possible Effect on Home Buying

Gwenda felt a wave of irrational terror sweep over her. It was a sickening sensation, and it passed almost as quickly as it came. Yet it left behind it a new idea.

"The house isn't — haunted — is it?" demanded Gwenda.

Mrs. Hengrave, a step below, and having just got to the point in her narrative when Major Hengrave was sinking fast, looked up in an affronted manner.

"Not that I am aware of, Mrs. Reed. Why— has anyone—been saying something of the kind?"

"You've never felt or seen anything yourself? Nobody's *died* here?" (Christie, Agatha. Sleeping Murder. New York: Harper, 1976, 6)

As stated in the chapter dealing with stigmatized properties, people express a variety of opinions as to why death may cause them to shy away from a specific house, but there is no doubt, as exemplified by numerous legal cases, that it does. Unfortunately, the reasons behind this discomfort appear to be as difficult a proposition to define for those queried about it as it is for the agents trying desperately to convince a prospective buyer that the quadruple homicide in the kitchen won't bother her at all once she gets used to the idea. However, there are aspects of this stigma around violent deaths which have certain consistent features. It is these similarities, as well as the differences, which will be explored in this chapter, in addition to probable explanations for what does lie under the surface of these reactions.

It should be understood that, just as in the previous chapter, I am dealing with psychological responses, meaning that none of

the mitigating factors will be identical from person to person. This should be seen in light of the fact that disbelief is as much a part of societal traditions as is belief. David Hufford has noted that a prime characteristic of disbelief is the premise that: "supernatural beliefs arise from and are supported by various kinds of obvious error" (1982, 47). In the case of fears which revolve around death, there should be seen to be no "error," but instead a world-view which varies from person to person. In essence, my contention here is that simply because there are those who refuse to set foot in a home where a death has taken place, as well as others who are not bothered at all by the same event, does not invalidate the reactions of either involved party.

This chapter will cover the types of death which are relevant to this thesis—deliberate and accidental/natural³⁴—and how potential buyers view both kinds. I will first discuss

³⁴This statement involves a certain amount of generalizing on my part. Heart attacks or other natural/accidental deaths can be sudden and lacking control, just as some suicides are planned and part of an expression of control. However, I feel that this generalization is justified in order to prevent a morass of "except in x, y and z cases" from drawing attention away from the subject at hand. I based my differentiations on the lines my informants appeared to be drawing between what events were more upsetting and which were less. It should be understood from the outset that all deaths are unique and that each person touched by it—loved-one or potential buyer—will react in a different fashion.

accidental/natural deaths and reluctance to live in proximity to such an event. Secondly, I will move on to deliberate deaths—e.g. murder and suicide. Finally, I will attempt to ground my informant testimony in certain long-standing traditions concerning sudden death through relevant literature.

Although my informants were both real estate agents and potential buyers, I have deemed it more pertinent to the beliefs expressed and the flow of information not to provide separate sections for each. Rather, I have acted to specify when an informant was an agent and placed both agents and potential buyers together.

Types of Death

While death, even in the confines of a home, can occur in a number of forms, for the sake of expediency I have broken it down into two categories: deliberate and accidental/natural death. These are the distinctions which seem to mean the most to the parties involved. These will then be separated into further subsets such as "deliberate—self-inflicted/other inflicted," as

becomes necessary in order to discuss specific reactions and beliefs. The reason for this distinction (as opposed to violent/nonviolent or natural/unnatural) is because my investigation has led me to conclude that it is deliberateness which seems to induce fear or discomfort in potential buyers more than any other aspect. This relationship between deliberate causes of death and fear is additionally borne out by the pertinent literature (c.f. Badone 1989, Burke 1992, and Aries 1981).

Accidental/natural Deaths

I will be looking at reactions to accidental/natural deaths first, as this is the smaller and therefore more easily dealt with of the two subject areas. In essence, there is a substantial agreement among my sources that a natural death is rarely problematic when it comes to living at the site. In the previous chapter, I stated that the majority of those I questioned had little or no objection to residing in a home where one or more persons had died of old age, illness or the like. There are exceptions, however, which can impact on purchasing decisions. The most

significant of these exceptions, in my experience, is that of Ben who refused to live in a house where there had been a death of any kind and was taking extreme precautions to make certain that this is not an issue he would have to face no matter how much such circumspection might slow his search for the right home:

Ben: I look for [newly built homes]. I look for that specifically or if, say its a family that has a home for sale and they're an older couple and say they're retiring or they're moving out or something. But I'll ask them about it. I'll ask them if anybody's died in the house. Cause they're not gonna volunteer. . . . I've tried to stay away from the older houses. So the houses that I look at now will be houses that I'm pretty well sure that nobody's died in general, and specifically nobody's died a bad death. (Personal Interview #12)

Ben is the most profound, but not the only, case of those who are unwilling to live in a house where someone has died even an accidental/natural death. Within the range of possible causes of death are other events which, despite falling under the spectrum of being nonviolent, are highly disturbing to certain individuals. One such case is when the victim is a child who has died because of sickness or accident. Again, not all of my

informants had the same reaction. For example, Jenny, a real estate agent, brought the subject up without any prompting as being of serious concern to her clientele, in addition to the price of the house:

Jenny: . . . if there's a child death there, or a suicide, [it] effects the price a lot.

Julia: Now you said "child death", have you dealt with that?

Jenny: Sold one house where a little girl had died of cancer. She was five years old. And people wouldn't even consider it. They didn't even want to look at it once I told 'em. (Agent Interview #9)

At least one other agent concurred:

Terry: . . . when it's a young person it's a whole different thing, or when accident takes a young person it's a whole different thing. That's a big difference you know. (Agent Interview #3)

Additional agents, however, had no issues with the concept of a child having died and had apparently not given the subject much consideration:³⁵

³⁵This further indicates to me that their clientel had not thought of it as being worth asking about.

Julia: Have you ever had to sell a house where a child has died?

Joan: Yeah.

Julia: Is that different from dealing with an adult?

Joan: It wasn't a factor. (Agent Interview #16)

Julia: What about . . . houses where children have died? What would you feel about that?

Sally: Probably not as strong, and I don't know why. I just never really thought about it, it's always adults. (Agent Interview #17)

The subject of the death of children in a house was never brought up independently, except by Jenny. As a rule, my informants appeared surprised by the question. Outside of sensational cases such as Megan Kanka and Jon-Bennet Ramsey, it was not mentioned in any of the real estate articles I pursued. Both the Ramsey and Kanka cases were most definitely deliberate, not to mention horrifying in their brutality.

While Ben is an exceptional case in his reactions, and the death of children can be considered an emotional grey area, there are others who would prefer not to live where even an accidental/natural death has taken place, though without being

quite as adamant about it. Most of this information comes from experiences real estate agents shared with me, as the majority of my own interviews turned out to be with those to whom an accidental/natural death was not of import. Ed, for instance, explained how, in the case of selling off the home of a deceased person, whether or not that person died on site often factors in to considerations of purchase:

There are some people, its more a personal preference, I mean its like some people don't like to be backing on to a cemetery, uh other people there's no question, uh some people have a stigma, there's no question. I f I find in a lotta cases that it's an estate sale, people, some people will ask "did he die in the house?" and depending on what's the reaction and so forth, some people will stay away other people won't. (Agent Interview #5)

This is not to imply that agents do not have their own opinions on the kind of houses they would be willing to live in—far from it. For instance, when I queried Donna as to her own reactions toward the houses I was discussing she was quite clear about her own feelings:

. . . personally, I wouldn't want to live in a house where someone had died or not necessarily, no I think even just died a natural death. Which is probably crazy, but its just, I personally, and probably those people are like me, you know you sort of feel, not that I believe in ghosts or anything, but that the presence of that person is still there, kinda thing, and you know you don't want to turn around some night when you're there all on your own and there's Great Aunt Clara sittin' in the chair, kinda thing, right. (Agent Interview #11)

She added that in the case where a child had died or where the death was violent: "This is crazy I know but probably if I were doing an open house there and you know you're the one left to lock up, I'd prefer to do an open house in the day time. I don't think I'd do an evening one . . ." She also believed, unlike most of my informants, that time would act to intensify the impact of the death rather than lessen it, leaving me to conclude that while agents may be more accustomed to dealing with houses wherein deaths have taken place, they are not wholly immune to its effects. In addition, Donna's belief that the presence of the deceased might linger was a commonly expressed reason for buyer reluctance, though again, it was more prevalent in respect to deliberate deaths.

One of my informants was particularly clear about not having any reluctance to live in a home in which death had occurred and, in fact, owns a home where he is certain more than one person has ended their life:

Lyle: It's a friggin' house. Ours is a house. Y'know, once people cease to live in a house, it ceases to become a home, so you can't say "Well, there's familiar smells" and all that stuff. Smells are gone thirty years ago. You can't use any of those reference points and it doesn't resemble any of what it was. But that ambiance is still there and, if I was really tight with the community I'd say it was community interaction . . .

Julia: Did anyone die in that house?

Lyle: Legions of people, you didn't die anywhere else in those days, you died in your bed.

Julia: And so it didn't bother you, any of that going in?

Lyle: No.

Julia: Would it bother you if someone had like suicided in the house? Murder or anything?

Lyle: No. (Personal Interview #14)

Regardless of individual reactions, most people are ostensibly less disturbed by an accidental/natural death than a deliberate one. What, if anything, lies behind this general acceptance of natural deaths is difficult to qualify. Those who were able to put words behind their reactions tended to do so by

explaining why deliberate deaths did upset them, as opposed to why accidental/natural ones did not, appearing more comfortable with describing the positive than the negative. In essence, there seems to be a lack of emotional residue left behind when someone dies without any outside interference, residue which, theoretically, could be left behind when death occurs by one's own hand or another's. These situations could perhaps be analogous to what Gillian Bennett has referred to as "'haunted'/'wrong'/'nasty'/'unhappy' houses," in reference to the "evil dead" (1987, 37) as opposed to the "good" dead who are: ". . . seen as an extension of ordinary life" (50) and would presumably, lead by extension, to "happy" houses.

I will leave the majority of the discussion of "good" and "bad" dead to later in the chapter when I will go over the reasons people give for being uncomfortable living on the site of a deliberate death.

Deliberate Death

The subject of deliberate deaths is somewhat more complex,

in that opinions, reactions and reasons are more disparate than those regarding the victims of natural causes and, as a rule, more intense. For the purposes of this thesis, there are two distinct types of deliberate death: murder and suicide. Both would cause many buyers to turn away from a home, though not always equally or for the same reasons. One of my agent informants, a former policeman, theorized that discomfort with these types of deaths comes as much from their being preventable as anything else:³⁶

Terry: Oh sure, just perception, everybody's perception, natural death is natural death, people accept that as a reality, but any other death is so needless, needless even if it was accidental/natural. . . . So there is needless deaths. Y'know it's like drowning. If you wear a life-jacket you won't drown. But every year there's gonna be thirty people drowned in Newfoundland . . . so there's a difference than a natural death and that type of death, it's a big difference I think and again people relate differently. (Agent Interview #3)

As persuasive as this statement is, it has not been universally

³⁶It would appear that accidental deaths could easily blur this line as they are often as not, violent. However, when queried about someone dying through misadventure in the home, none of my inofrmants appeared to place this as any different than a death through illness.

expressed by my informants. For instance, when Anne said that deaths like murder or suicide were worse for her, she did not bring up the issue of prevention:

. . .Hmmm. Well, I guess it has to do with some vague belief that. . . the negative energy accompanying such an act can be contagious. A "The Shining" kind of a thing.

. . .

Also, when I think about ghosts or hauntings, the idea of unhappy or fitful spirits seems more plausible to me than other explanations. Those would be more likely with suicide and murder victims. So, although I don't know that I can honestly say that I "believe" in ghosts, I would be afraid of actually encountering one in a building in which such an occurrence had taken place. (Personal Interview #4)

And Simon explained that in his case, when he was house-hunting, if he had learned that a violent death took place in the house he was viewing, he might not turn away from it, but he would be reluctant for reasons which were different from those expressed previously, but with certain similar underpinnings:

In my case it's not fear of external danger (i.e. being murdered by ghosts or being forced to commit copycat suicide) so much as the fear of inner turmoil that makes me uncomfortable with the idea of living in a place where

something like that has happened. I'm afraid I'd obsess about it, have bad dreams about it, get nervous when I was home alone at night—that sort of thing. I don't expect I'd ever have any physical trouble, except for what I caused myself with my own irrational fear. I know that the fear is irrational, but I also know I would have it. I'm already afraid of the dark, afraid of UFO abduction, and a host of other silly things that nonetheless scare the bejeezus out of me when I'm left alone to think about them too long. (Personal Interview #8)

An interesting dichotomy appears in the area of refusal of purchase due to suicide versus murder. While most of the local agents I spoke to appear to have had more experience with suicides, the majority of the published articles dealt with buyers walking away due to murder. This may well be because murders tend to get more, or at least longer, press than suicides. There is a public attempt to solve the murder and bring the murderer to justice, whereas any "solving" of a suicide is usually an internal matter, making it less likely that prospective buyers will be as aware of a suicide as a murder. Agents have expressed a number of theories as to why this is, including but not exclusive to fear of ghosts on the part of consumers.

Julia: Do you know, have any idea as to why, these violent deaths cause buyers to shy away.

Joan: I guess its their own personal fear and security that a ghost may come to haunt them. (Agent Interview #16)

An informant who was looking for a home at the time of our interview expressed his feeling that fear of a repeat of a crime was a strong motivator for him:

Steve: As for murder, the same rules would apply. However, if I could detect that the murder was a result of poor home security, poor neighborhood, etc., I would not live there for that reason. In fact, if the murder were anything but domestic, I would not live there. To me, it's an issue of safety. (Personal Interview #3)

Similar fears were expressed by other informants. While the possibility of the murderer returning is not precisely relevant to the subject of belief-related fears, I feel that it is important to note these concerns for the reason of their impact on house-buying decisions. I will investigate this particular aspect further in the chapter on rumour. Others who indicated they would take this aspect of death into consideration were Jay and Mary. Mary's comment was that a violent death would bother her most if:

. . . murderer of the person who was murdered was still at large. He/she might come back. And I might feel funny if I thought there was a body buried in the basement or something. Forget "might" -- I would definitely feel funny about that! (Personal Interview #11)

And Jay too felt that this was of great importance in the decision as to whether or not to purchase:

On to murder: it would again depend on the circumstance. If someone went mental and went on a killing spree, wiping out their family while they slept, that would kind of creep me out but for different reasons than if, say, a family had been wiped out because some random stranger broke in. In the latter situation, I would just plain feel unsafe because I would be worried that the house was an easy mark to break into; I would just never feel safe in such a house because I would think, well, if they could break in once, what's to stop them from breaking in again? But that is a different, almost rational fear. (Personal Interview #6)

It is the awareness of reactions such as these on the part of the general public that lead the majority of real estate agents to feel an obligation to disclose such events, regardless of the current lack of specific laws or regulations. They are aware that buyers may have a strong level of discomfort and will, if nothing else, think more highly of the industry if they are advised beforehand

of the history of the property. Paul McCarten, an Ontario real estate lawyer, had his own reaction with respect to houses which had been witness to violence, particularly in the case of the Paul Bernardo home in St. Catherine's:

Despite the sense that there is no obligation to disclose tragedies like murder or suicide, "I've got to believe that house is so tainted somehow that not to disclose would really be a serious matter," he says. (Griffin, Law Times, n. pag.)

Others simply accept that this is the way the market works, without offering up an opinion as to why: "Violent deaths are the one that put the hex on [the houses]" (Phone conversation with agent).

Murder

Real estate writers exhibit their own take on why men and women in the market for homes will reject places which are the site of deliberate deaths. As I have stated, the majority of these deal with reactions to murders in the places they are viewing.

Therefore, I will firstly deal with the issue of murder as detrimental to sales and secondly move on to suicides.

The previous chapter on law and stigma covered the gamut of legal cases and other refusals of purchase which have taken place with respect to homes where there have been murders. It seems that the more spectacular/publicized the deliberate death is the greater the likelihood that a buyer will turn away, or at least demand a drastically lowered price. While the majority of agents and writers are concerned with the moral and legal obligations behind disclosing a murder, Marianne Jennings has come to some conclusions regarding the emotions of people when faced with such a situation:

Indeed, part of the fear of buying a property where a death has occurred may be the fear of hauntings, as well as the fear that you will never be able to dump the property on some other unsuspecting fool. (46, fn. 25)

Along with other fears noted by real estate agents, is the very real possibility that the house will have a reduced resale value if they decide to sell, regardless of their own comfort level.

Why this is so is exemplified in the statements of my informants who feel they would be happier in a house where such an event had not taken place. While some of the answers are more detailed than others, and many have nearly identical particulars. I have felt it appropriate to include a substantial number of the commentaries in order to demonstrate the prevalence of these reactions to deliberate deaths perpetrated by another. The level of detail varies from Bart's: " . . . the site of a really grisly murder would probably spook me," (Personal Interview #7) to those, such as Jay, who were disturbed by deliberate deaths in general: "A murder would creep me out more than a suicide, although it would depend largely on the situation in both circumstances. I would say that a violent death is creepier than a non-violent . . ." (Personal Interview #6).

Some buyers reacted in what I have to consider a "typically" folkloric way, in that their reasons for not wishing to live in a particular residence appear to be foregrounded in the long-standing tradition that death in a home can lead to hauntings or other negative experiences for those who reside there. Although

they do not necessarily express themselves by saying "I was afraid that because of the violent death there would be ghosts," their responses, like those of Joan and Donna, indicate an awareness of, and to some extent, an agreement with the following concepts:

Simon: I don't know if it's a fear that I might go crazy and commit suicide or that I would always know that it happened in this house or what, but it bugged me enough to not even consider it. (Personal Interview #8)

Harold: I suspect I would feel the same way if someone were murdered in the house. Something that awful happens there and I know about it, it'd bug me a lot. (Personal Interview #1)

While, on the one hand, Simon and Harold were somewhat ambivalent about their own emotional reactions to the fact of a deliberate death in the homes they were viewing, they were still distinctly uncomfortable with some aspect of the events. Diana, on the other hand was quite aware of her feelings of discomfort and how they would relate to such an event:

But I think I'd be bothered by the murder. Intense

negative forces and all that eh. Also knowing that the murder occurred and where (I'd have to ask) would make me remember it every time I entered that part of the house etc. By remembering I'd be creating more and more negative thought in my life as I wondered/remembered the event. Not a lot mind you. Just . . . it'd be like remembering a rape. It has great distance after time, but still has deep emotional echoes even after you have come to terms with the event be it your own experience or that of a close friend etc. . . . Murder would bother me most. I think a normal death would be difficult were it someone I knew and loved in life. For again it would have the emotional power of echoes. Echo haunting would occur as it were. . . probably at weaker moments of stress and emotion rather than as positive memories to comfort one. Loss is the most powerful of emotional echoes for me and if stressed and feeling alone the one things that is most likely to send me into the depths of despair. (Personal Interview #9)

Karen's response was couched in the most typically folkloric terms. In fact she appears to have based her feelings on a strong awareness of extant beliefs regarding murders in the home. More importantly, her behaviour is based not only in belief but in personal experiences of strange events in a home in which she resided:

Yes I think I would be a little leery of buying a house that had been the site of a suicide or murder. In fact, when my family was experiencing a rash of bizarre

phenomena (old-hag, things going bump, etc.), the first thing we tried to discover was whether anyone had died in the house and how. The assumption made (as I have always understood it) is that a murder victim has issues with the living—they are not likely to rest in peace and are more likely to be a source of great dismay to any who touch their stuff, inhabit their space or are in any way connected to them.

Suicide victims are also not likely to rest in peace, nor be particularly happy campers in the spirit world. (Personal Interview #10)

Another informant provided further support for the "Is there still blood on the floor? Don't bother me none" (Personal Interview #8) theory: though with the codicil that the simple awareness that the blood had been there in the past would be sufficient to interject discomfort into the concept of residing in such a home:

Steve: If it were a bloody death-intentional or not-that would probably bother me. Just the idea that they would probably never be able to get all of it up. For instance, even if it looks "clean," criminal investigators can still use luminol to detect the presence of blood, and it would still show up. The idea of a bodily fluid having been splattered all about bothers me regardless of the fluid. . . . (Personal Interview #3)

Finally, Justin expresses what appears to be the most neutral reaction for those for whom murder in the home is something they would rather not live with. When he was looking for a new house, Justin opted for the "don't ask, don't tell" policy in the face of his discomfort:

My guess is that I would care if there had been a murder there. I guess that's why I'm not all that eager to start asking questions. . . . What you don't know won't hurt you kinda thing. . . . Heck , they tore down the video store here, because some people were killed there. . . . (Personal Interview #5)

The most succinct statement I received on the issue of living in a home where a murder had taken place came from Phil, who, in addition to stating that he: "couldn't live in the Bernardo house out of respect for the dead," also felt strongly that he: "wouldn't want to live in house where I'd killed somebody" (Personal Interview #19).

Suicide

In the case of my informants, suicides invoked much the

same reaction as that toward murder regarding refusal of purchase. By and large their (dis)comfort level did not appear to be dependant on whether the deliberate death was self or other inflicted; however, the agents I spoke to had encountered just the opposite when showing houses. The most interesting reactions I found to suicide in fact came from those who had little or no discomfort with such an event having taken place in their living space. Leaving those aside for the moment, it seems that, as with murder, the greatest discomfort factor is related to violence with its physical rather than psychological residue:

Steve: So in other words, suicide wouldn't bother me unless it were particularly messy—but again, how would I know? Well, I'd probably ask, "How'd they die?" If they said anything that connotes gore—shooting oneself, slashing of wrists, etc.—I would not buy the place regardless of whatever other circumstances underlied that death. I would not bother to ask for any more details beyond that point. (Personal Interview #3)

For others, the psychological detriment is more personal than just discomfort with the act of suicide. The end result of this emotive reaction is ultimately the same, but the reasoning behind

it differs:

Sondra: Shortly after we bought that house this young fellow that I grew up with. . . . He killed himself. Shot himself in a house just up over the hill. . . . That house became for sale, summer, 'bout the same time this house was and it was around the same price range, and it probably had . . . a really nice view, it was a newer house. Probably would have served my purposes just as well, but I would not in a million years think of buying that house, because he killed himself in there and because I knew him. . . . Not that I'd be afraid to see him either. I just wouldn't want to move in there where I knew he killed himself. Dunno why. Just maybe because he killed himself. Not because I'd be afraid of seeing him. . . . If he had died up there it mightn't have bothered me. If he had died of cancer or somethin' like that it wouldn't have bothered me, but the fact that he killed himself. . . .

If it was murder or suicide I wouldn't want no part of it. And the woman that owned this house too, she died . . . she fell down, that's how she died, died of tetanus. And I hung around with her son. . . . We was in tenth grade. (Personal Interview #13)

For Sondra, who believes her house is slightly haunted and seems to enjoy telling people of the fact, murder and suicide were both reason enough to chose against a potentially better home, but her feelings are compounded by having known the suicide victim. For her, death is not so much of a problem, but that the death was

caused by a deliberate act made her quite uncomfortable. She is not the only one for whom the personal aspect made a distinct difference in the way they perceived a particular home. Scott, a real estate appraiser, had this to say:

Suicide—I guess again it would be the nature y'know, my friend up in the area where I live, built a house, a nice two-story house and within a year ago he went upstairs and blew his brains out. And y'know, I'm amazed by it. I wouldn't go buy that house now for the simple reason I know who he was and there was a connection with him and me. But somebody else, a house where somebody died, taking a few pills and died, I wouldn't have a problem with that personally. (Agent Interview #4)

In Scott's case, the violence inherent in his friend shooting himself did not function as a mitigating factor; rather the sole discouraging factor would be that the suicide victim was known to him. While I and most of my informants assumed the deceased to be a stranger, when the issue of personal knowledge did arise, it was a significant factor. When I discuss those who felt little or no discomfort, the issue also appears, but in a way I would not have expected.

Real estate agents too have their own personal experiences with houses where one or more occupants had committed suicide, and with client reaction to the same. More than one has had or, at the very least, heard of buyers who refused to occupy such a home. For them, the reasons for this seemed to be less important than the fact that such an event would negatively impact a sale: And their experiences do not appear to differ a great deal from one another. I have included three statements for comparison, despite a striking similarity in all three:

Donna: and its very difficult with some clients, they don't want to touch it, they don't want to go near, anywhere near it once they y'know that somebody hung themselves in the closet or whatever right? (Agent Interview #11)

Susan: People just will not buy a house with a suicide in it. There was one on Canada Drive, I think it's still there. For a very, very cheap price. Gentleman committed suicide in it. People just get really eerie about buying a house with a suicide in it. (Agent Interview #8)

Terry: Yeah, one in particular uh, one of our agents got somebody and the instant she told them there was a suicide there a few months ago then they wouldn't [go near it] . . . the house sold by the way. . . . It was listed well below market value, I'm pretty sure it was yeah. And it would you know? Its hard enough to sell a house when everything's fine, so there has to be some

advantage to buying it. (Agent Interview #3)

By far the most profound statement I was privy to on the issue of personal and emotional discomfort relating to houses which had been the site of deliberate deaths came from Jay, who used vivid imagery in his effort to describe what precisely effected him regarding the kinds of death I have been discussing.

Jay: . . . an accidental death carries a different kind of mental baggage with it. With murder or suicide, there is something there, something conniving, something not quite right with the person committing the action. Premeditation makes the event terrifying. An accidental/natural death is a random event, no more preventable than a car crash in which someone dies.

Say, for example, that someone had hung themselves in the bedroom. I would probably get creeped out by that more than I would if someone had just shot themselves in the same room. Hanging leaves too much of an EC Comics type image in my brain; I think it would give me nightmares of the Wes Craven nature, just because I'm easily influenced and let my imagination run away with me. Hanging is a lingering thing; a shotgun in the mouth is over very quickly (not enough to leave a "vibe") and a death by overdose wouldn't bug me at all, simply because it seems like a wimpy, painless means of dying. So, a suicide per se wouldn't necessarily bug me; the imagery of each particular situation would have a different effect on me, though.

Perhaps if I were blind, it wouldn't bug me so much—I would know that a death had occurred, but I'm not sure I would have an image associated with it that would get

into my head and my nightmares. However, hanging leaves such a film noir image with me (I used to have a Batman comic when I was kid that ended with one of the villains dying when he tripped and accidentally hung himself from some guy wires in front of a movie screen. That particular panel in the book used to terrify me). (Personal Interview #6)

I include this rather lengthy quote by Jay for two reasons. The first is that I feel it is the best demonstration I have received of how the images of a violent event, such as a deliberate death, can stick in the mind of the buyer and drastically affect his or her decision. For him it was not the act of violence in general, but that specific acts worked on his subconscious and could conceivably function to terrorize him if he chose to live in such a place. His "fears" were not of reprisals by the dead upon the living, but rather by his imagination upon his everyday life. Though far too long to be included in any kind of real estate dictionary, I feel that Jay's reaction is the best description that I have yet found of why property becomes stigmatized.

My other reason for inclusion is that the first paragraph of this quote, wherein he states:

. . . there is. . . something conniving, something not quite right with the person committing the action. Premeditation makes the event terrifying. An accidental/natural death is a random event, no more preventable than a car crash in which someone dies. . . (Personal Interview #6)

This provides a clear delineation between the two types of death, establishing quite clearly why one is so much more disturbing for a great number of potential buyers than the other; why even a violent accidental/natural death does not carry the same connotations as the deliberate ending of a life.

No Fear

There are also those who have no objection to living in a house where a deliberate death took place and those who professed to be disturbed by nothing short of a bloodstain on the floor, fortunately others were more forthcoming about their specific beliefs. I feel that the statement by Diana is the most recondite in its portrait of why living in the aftermath of a suicide would not be profoundly upsetting to her; particularly her feelings

about having personal knowledge of the deceased. Furthermore, she was one of the few informants to discuss making the space they were living in "clean" again, after traumatic events.

Diana: Suicide would be less bothersome because there was choice. The individual who died had control over that event. To me suicide is a much more positive thing because of this control though its generally a last grasp for control from someone in the depths of despair. Because of my beliefs I wouldn't feel compelled to ask why so much in this case and lighting a candle etc., would be a tribute to that person's attempt at control. The one positive spark in all of us that to me truly only becomes devastating when it reaches beyond the individual into a wish for controlling others or aspects of others lives. I guess then I'd feel I was honoring an individual who was looking for such in life, felt they could only find it in death and so I'd be completing a circle communing with them in a sense as an understanding friend, as I think I would have if they were known to me in life. This is positive in every angle unlike dealing with murder.

Death and suicide are probably even. Unless I were to have known the person who died and then . . . it sounds cruel but I could probably handle the suicide better on a long term basis I guess. I just don't know. I've never had to deal with either case. But I'm pretty sure that suicide would be preferable because if I knew the person . . . I'd know all the things they still wanted to do and see. . . all that missing living yet not done and have my own personal emotions and their echoes to deal with for the rest of my life. Again suicide would indicate a personal wish of the individual which I'd respect whether I could understand it or not. (Personal Interview #9)

Diana's belief that suicide functions as a mechanism for maintaining control over one's life adds a twist to her narrative that has not appeared in any other informant statement, nor in any of the relevant readings I have done. It is, however, a very vital and apparently effective coping mechanism.

I have, on my own, surmised a further reason for some of those who express that they would have no issue with living in a house where someone died, at least when those involved are real estate agents. This is the "Familiarity Breeds Contempt" theory of house purchase. It is based on the fact that many of the agents I spoke to stated that while they might have problems with a particular home due to how it "felt," as a rule, they would have no problems living in a house where someone had died:

Adam: And it wouldn't bother me to live in a house that someone got killed in because I think that sort of dies out of your mind, y'know, it just disappears. If you bought a home and you went and moved in it and someone said "someone died in here, violently." Well, you might be a little suspicious and say "I'd like to get out of here." (Agent Interview #7).

Julia: What about yourself personally. Would you live in a house where had someone had died or even that was rumoured to be haunted or anything like that?

Ed: I don't know that that would bother me. It would probably bother my other half more. . . . I don't think it would make any difference to me. (Agent Interview #5)

Both of these informants were men who had been in the real estate business for a number of years, making them aware of all the ins and outs of house—buying, including dealing with a number of houses wherein the owners had died from one cause or another.

Having established that there are substantial negative reactions to a deliberate, or even an accidental/natural, death in a place where one is considering living, I now propose to move on to a brief review of certain of the literature on this subject. While none of the following refer generally or specifically to the issue of shared living space, it is my feeling that their contents directly support the theories and emotional reactions put forth in the first portion of this chapter and serve to foreground informant statements within long-standing belief traditions.

Death Literature

While many of those I spoke to were able to provide some explanation for their reactions, I felt it pertinent to look into the extant literature on death and related beliefs, in order to ground my research within a wider context. There is an overwhelming body of literature on the subject of death and the long history of human reaction and ritual. In the interest of staying within the confines of this work, I have investigated that which seemed to relate directly to the answers my informants gave me, in essence; expanding on their sentiments.

The works I found most fascinating and useful were those on segregated dead. That is, those who had died out of their time and in such a way as the survivors felt it necessary to protect themselves from the dead (c.f. Montell 1975, Hyatt 1935).³⁷ In the interest of brevity, I have chosen to discuss only a few works which, despite being from slightly diverse times and places, all

³⁷Vampires, as they appear in folklore, as opposed to popular culture were seen to have originated from those who died a "bad" death and rose again because of this. (Gottlieb, "The European Vampire." *Folklore Forum*, 24:2 (1991): 39-61).

have very much the same thing to say regarding those who died "bad deaths," and what actions should be taken regarding these deaths and/or their repercussion.³⁸

It has already been established that for certain persons, any death is deleterious to living space, and for the most part, suicide and murder emerge as having the greatest detriment to the purchase of a home. Traditionally, such deaths have been problematic for all those involved, though not necessarily in relation to housing. Deliberate deaths, as a rule, come without warning or any ability for the victim and his or her loved ones to prepare emotionally for the ending of a life. Such an event functions to radically disrupt the world around those involved, "contradict[ing] control" (Stearns, 341). As a consequence of this onslaught on the perceived stability of existence, these deaths have been labelled as negative in a more substantial way than simply the violence with which a person met their end.

³⁸There are, of course, certain categories which are not covered in the literature I investigated. What folkloric or belief related attitudes exist on the subjects of deaths such as sudden heart attacks, deaths of any category which took place in a location other than the home, assisted suicides etc., are all interesting subjects for investigation. However, as they were not brought up by my informants, I felt them to be topics better left for study at a later date.

Philippe Aries (1981) and Ellen Badone (1989) have both studied community reactions to sudden and deliberate deaths; Aries looks to the middle ages and Badone to Brittany of more recent times. Both have come to similar conclusions. Aries bases his deductions on the medieval concept of *la belle mort*, "the good death," which came with sufficient warning for the victim to put their affairs in order, receive extreme unction, and die surrounded by their family:

If death was to be known in advance in this way it could not be sudden: *mors repentina*. When it did not give advance warning, it ceased to be regarded as a necessity that, although frightening, was expected and accepted. . . . It destroyed the order of the world in which everyone believed; it became the absurd instrument of chance, which was sometimes disguised as the wrath of God. This is why the *mors repentina* was regarded as ignominious and shameful. (Aries, 1981, 11—12)

As a consequence of this feeling of comfort around *la belle mort*, those who died suddenly—*mors repentina*—were seen as at least partly to blame for the circumstances of their deaths. In the 13th century, for instance, the murder victim was deemed to have been

judged by God in such a way as to be complicit in his or her death, (Aries, 1981, 11&12) a tradition which could lead to discomfort with living in the same place as someone whose life had been such that God felt them unworthy of continued existence.

A similar situation exists in Brittany, with a reaction almost identical to that described by Aries in the middle ages, though without the aspect of blame. From Badone's research on "Triste" deaths, the victims do not appear as accessories in their sudden deaths:

In addition to the concept of *la belle mort*, several types of death are perceived to be *triste*, or sad. *Triste* deaths shake the community as a whole and evoke special grief among those close to the deceased. Deaths characterized as *triste* include suicides, accidental/natural deaths, and the deaths of young people. (57)

In both of these statements we see echoes of the discomfort my informants and many others ostensibly feel in the presence of a deliberate death. While not fully reflective of the expressed emotions, the writings do attest to a long-standing tradition of reluctance associated with violent disruptions of life caused by

murders or suicides. As Joan, a St. John's real estate agent, said about her own unwillingness to purchase a house wherein a bloody death had taken place: "There's a certain eerie feeling you know, if you know someone was brutally murdered on the floor. You know and the blood was dripping there, the violence touches us in some way." It is her last sentence that I find most relevant to the present situation. It is the touch of violence, possibly even the fear of contamination, which may lead many of us to shy away from such homes. This feeling is supported by Karen:

Then there is the omnipresent "cootie theory". Whatsoever touches one person (in this case—X-Person) will be transferred to me when I touch their stuff. So If I live in house where a violent death has taken place—I'm being touched by violent death. Not high on my "to do" list. (Personal Interview #10)

While other means of rectifying the perceived damage done to a home will be discussed in a later chapter, Juha Pentikainen, in his article "The Dead Without Status," (128-34) provides a vivid and thorough description of some of the immediate actions, in lieu of an ability to bargain for a better rate or new carpet, which have

been taken in Sweden and Finland in the past to mitigate the destructive power of violent deaths:

. . . a Swedish-Finnish church law which, even into the twentieth century, classified the departed and their funeral ceremonies into four categories, according to the manner of death: "public," "quiet," "shameful," and "depraved." "Public" funerals were the norm. "Quiet" funerals were for still born children, the unbaptized, people who had committed suicide in a fit of temper, alcoholics, and those who had given their bodies for anatomical research. The priest was present, but was allowed to read only the commitment. "Depraved" burials were for victims of duels, for anyone who had been killed in anger, died in prison, or lived an ungodly life, for murdered children, and for the unknown found dead. Their graves were situated in the "worst corner" of the graveyard, still seen in many churchyards today. The priest was not present and there was no Christian ceremony. "Shameful" burials were for deliberate suicides (who were excommunicated) and for the executed. Their bodies were buried in the forest. (128)

Others have commented on similar attempts to place those who did not have *la belle mort* outside of possible harm to the living. In "Before Death and Beyond: Death and Ghost Traditions With Particular Reference to Ulster," (13 - 42) Linda Ballard mentions the way the women who died giving birth were dealt

with: "Women who died in childbirth might also be given an irregular burial. Such people might be buried at road sides, or at cross roads" (24). Finally, Ballard also discussed the fear which has been expressed, but not dealt with in this chapter;³⁹ the fear of ghosts arising from the "irregular" dead:

While some of the. . . segregated dead may become ghosts, they are also to be found amongst the fairies. . . . The segregated dead have died out of their time, and perhaps, . . . out of their place. Their status therefore is neither that of the living nor that of the dead. (26)⁴⁰

Conclusion

While death of any kind has been shown to have potentially

³⁹The belief in and experience of ghosts resulting from violent deaths will be discussed in the following chapter as I feel there are distinct separations between reluctance to live in a house where deliberate death has transpired and the issues of haunting.

⁴⁰Precautions against the return of the dead are detailed in the *Frank C. Brown Collection of North Carolina Folklore* Vol. VII, such as:

5431 The door knobs should be changed after death so the ghost won't come in.

5434 Remove the doorstep after a corpse has been taken out to prevent the person's returning.

5435 If you take up the ashes and follow a corpse out of the house, the corpse will never come back to that house.

5473 Members of the family of the dead should wear black to a funeral, and it is better if it is borrowed. It is a disguise for avoiding the ghost (Hand VII 85 & 90).

These precautions may be inferred to be related to "irregular" deaths as well as "normal" ones.

deleterious affects on the sale of an otherwise acceptable home, real estate articles back up informant testimony that deliberate deaths are far more inherently damaging to sales than accidental/natural ones. This negative impact may be the result of fear of ghosts or fall—out from negative energy, too-vivid imaginations when it comes to the thought of blood or the manner of death, a simple reluctance to live in the same space as a violent act, or any number of other reasons which the potential homeowner may not be able or willing to articulate.

Whether or not the long-standing tradition in folklore of segregating those who have died irregular deaths, and having fear or even loathing for the victims of violent or otherwise unexpected endings, is directly related to the current expressions of fear or reluctance is not certain, but it is likely related. Violent death inspires fear in those associated with it, and whether the victim was a stranger or friend, choosing to live in the place it occurred, associates one with the death and the attendant violence.

"The suicide is guilty of a double offence: one spiritual, in invading the prerogative of the Almighty and rushing into his presence uncalled for, and the other temporal, against the King, who hath an interest in the preservation of all his subjects." [W. Blackstone, Commentaries on the Laws of England, p. 189.]⁴¹

⁴¹Quoted in Jon Davies' (Editor) Ritual and Remembrance: Responses to death in human societies, 1994.

Chapter 4

Comparing Popular and Literary Ghosts with Home Purchasers' Beliefs

"Well that's how it is in this hotel. I don't know why, but it seems that all the bad things that ever happened here, there's little pieces of those things still laying around like fingernail clippings or the bogeys that somebody nasty just wiped under a chair. I don't know why it should just be here, there's bad goings-on in just about every hotel in the world." (*The Shining*, 88)

Regardless of their experiences, or lack thereof with actual hauntings, the passage above seems to demonstrate the fears of many who find themselves in the situation of viewing a house which is, or might be haunted. They are about "all the bad things that ever happened here, there's little pieces of those things "still laying around" and what impact those little pieces might have on their lives. In the case of *The Shining*, all the sudden and/or violent deaths which had taken place in the Overlook Hotel actively rose up and meted harm upon the family hired to caretake it for the winter. Personally, from either the book or the movie, the image which sticks most in my head is that of the woman who took her life one season, rising up out of the bathtub where she'd died to threaten those who were able to see her. I know that, due to just such an image, if I were to be told that someone had died in my bathtub, I would have more than one occasion of wondering if she were going to come after me.

If, as was briefly discussed in the last chapter, those who die suddenly and/or violently experience shock and other attendant emotions, the re-enactment of their death scenes, wandering along

hallways and pulling the covers off sleepers, could simply be explained as attempts to come to an understanding of the state in which they have found themselves. As interesting as the question is, this chapter is not intended to explain either the whys or the wherefores of ghostly behaviour except where it relates directly to those living with it. My intention instead is to discuss how popular culture images interact with beliefs and folkloric images to heighten specific fears which may exist around houses in which someone has died.

In this chapter I will examine beliefs and popular images associated with reasons for the return of the dead in the form of ghosts, locations associated with hauntings, and activities associated with ghosts. It is notable that the experiences of my informants for this thesis bear little resemblance to "stereotypical" beliefs about the ways in which a house is haunted by the victim of a violent death. In other words, no one I spoke to, not even the man who lived in a death-prone neighbourhood encountered anything close to what was suffered in *The Amityville Horror*, *Poltergeist*, *The Shining* or the majority of narratives which make

their way into either studies on hauntings or popular culture.⁴²

Gillian Bennett comments on the difference between literary or popular depictions and contemporary believed reports by saying:

As we have seen, folklorists today define their subject in terms of informal cultures which we share by virtue of belonging to human groups. The full-blooded ghost stories with howling storms and dogs, hollow voices echoing in cobwebby attics, white-clad figures flitting through the gloom of old houses by the light of a single guttering candle are the stuff of literary fiction, not folklore. Fact is more prosaic. The strange experiences we have and talk about to others, and which go to make up the belief-traditions which our group share are, as the women I spoke to said, 'just little things'—less baroque but more believable, less flamboyant but more fascinating. (11, 1987)

Despite the contrasts between the fiction and the fact of beliefs about haunting, the images presented in fiction are frequently used to describe the fears which persist around living in a potentially haunted house. Therefore, so as to not denigrate my informants experiences, but to place them in the context of popular beliefs about the subject, I will cite literary sources for

⁴²"Two men shot themselves in the house across the street, so I figured maybe we had a little convention going." (Brent, Personal Interview #17, on living in a house whose previous owner had hanged himself.)

the more "juicy" hauntings and contrast these with actual reports from my informants.

I have included the literary type of haunting because of my personal feeling that such narratives help to foster the beliefs which have caused real estate agents so much difficulty. This is not to deny the existence of either ghosts or hauntings of any type, but rather to imply that were knowledge of these events not so prevalent in the public mind, there would be fewer lawsuits and less need for specific types of disclosure.

Before delving deeper into this subject it is helpful to define precisely what is being discussed when words such as "ghosts" are used. *The Encyclopedia of Ghosts and Spirits* describes apparitions as:

The supernormal appearance of a dead person or animal or of a living person or animal distant to be within the range of the normal perception of the observer. . . . Apparitions of the dead which are seen repeatedly over a period of time, apparently haunting the same location, are also called ghosts . . . " (13)

"Some haunting apparitions are believed to be earthbound spirits of the dead who are trapped by unfinished business." (14)

The Encyclopedia has this to say about hauntings: "The term 'haunt' comes from the same root as 'home.' Typically, a haunted location is the former home of the deceased, or the spot where the deceased died" (160). This concurs with Louis C. Jones' article, "The Ghosts of New York," wherein he notes that student research has determined: "The evidence indicates that something more than a third of our ghosts died violent or sudden deaths" (244).⁴³ Also: "Those who haunt houses . . . tend to choose one room which is their favorite. . . . frequently for good cause. It may be the scene of some catastrophe in their lives, it may have been a favorite spot" (248). This latter statement can be extrapolated to the possibility that if the ghost in question died within the confines of her or his home, the trauma would draw

⁴³While Jones does not specify this, it can be assumed that the other two-thirds died from those circumstances which I have classified as natural/accidental, and persist in returning despite a lack of violent intent in their demise. That such deaths can result in hauntings as easily as deliberate ones gives further support to those who are uncomfortable living in proximity to any type of death.

them back.⁴⁴

Ghosts and Violent Deaths

It has been demonstrated that at least some of the reluctance around living in a house where a violent death has taken place originates with not wanting the residue of such an event in one's living space. Informants have cited their own overactive imaginations, "too many viewings of *Poltergeist*," and the like to explain this reaction. However, it is logical to assume that neither the movie *Poltergeist*, nor these imaginations would have much fodder to work with were it not for the established belief tradition that persons who die violent—and even peaceful—deaths often come back to haunt the places where they died: sometimes subtly, sometimes causing torment for the new residents.

For instance, when one thinks of a haunted house, there

⁴⁴ It must be held in mind, however, that Jones' study, while thorough, accurate, and unlike most other examinations of ghostly traditions in being more quantitative than qualitative, is limited, by being isolated to Ghosts of New York State. Even so, the majority of his information applies with a reasonable degree of accuracy to that which I have gathered from other sources.

tends to be two prominent points of view. Gillian Bennett touched on both types in her research on the beliefs of English women in *Traditions of Belief*. She concludes that these two contrasting types were of the greatest import for her subjects, a determination which I have also reached in my own research.

Bennett states:

At one extreme there are the spirits of the good dead who surround their descendants and continue to provide protection, love and reassurance. . . . At the evil pole are the meaningless, malevolent, disruptive phenomena that the women refer to as '*things* in houses', 'spirits', 'ghosts', 'poltergeists', or 'haunted'/'wrong'/'nasty'/'unhappy' houses. (1987, 36-7)

I am using the word "ghost" to refer to any returned spirit of the dead, good and bad alike, unless specifically stated otherwise. While the issue of the ghosts of loved ones did not play a large part in my research, finding the idea that there were spirits with whom it would be acceptable to live and those with whom it would not, seemed to be a given:

Simon: I suppose it would depend on the behavior of the

ghost. If they watched me make love or pee or pick my nose—or worse, made fun of me while I was doing it—then I'd have a hard time. If they did cute little "Topper" antics I'd probably be amused at first and slowly come to hate it. If they were interactive like a roommate who wanted to sit down and talk about things from time to time I might learn to enjoy the experience, but if they were completely out of touch and just drifted in and out at random I'd probably always feel a bit edgy about it. Maybe edgy enough to move away, depending on how annoying they became.

And if they were hostile, I'd take steps to get rid of them or else move away if I couldn't. (Personal Interview #8)

Mary: If I knew for sure there was a ghost (for example I had seen it on more than one occasion), then I would be concerned about its motivations. If it was benign, no problem. If it was malevolent, then I'd do an exorcism or something. (Personal Interview #11).

Though Simon is far more demanding in his concept of what connotes acceptable behaviour on the part of a ghost, both he and Mary have clear ideas regarding what they would be willing to live with and the actions they would take if the revenant took exception to either their presence or the fact that they were alive. Neither of them fail to notice that there are both good and bad ghosts, supporting Bennett's conclusions regarding revenants.

While neither they nor Bennett specify the kind of death

that leads to hostile actions on the part of the spirit, this issue has arisen before. Both the mediaeval and Nordic traditions listed in Chapter 3 qualified the fear that those who died suddenly and/or violently were not at ease in death. They were perceived differently by the survivors as victims who were often understood as complicit in their own ending. Murder victims and suicides alike often received burials different from those who died in "approved" fashions. Even if their remains were not physically treated otherwise than those who suffered "tame" deaths, the community felt that such deaths were wrong and frightening. One of the consequences of such a death was that the deceased might well return to visit retribution or other horrors upon the living.

Steps taken in the event of *triste* deaths, such as unconsecrated burials, all have the same purpose—to keep the dead among their own kind. Even in the case of *la belle mort*, rituals were often performed to keep the dead from "walking." The belief that the dead may haunt the houses where they died is very likely grounded in this belief in the restless dead. Whatever the reasoning, in both past and present traditions, the dead often

express reluctance to leave their former residences behind; one of the results of which is making these places more difficult to sell than they would otherwise be.

This difficulty is, at least in part, because the "dead without status" are not only prone to walking but:

It is commonly supposed that the spirits of those who have suffered a violent or untimely death are baneful and malicious beings; for . . . they were driven unwillingly from their bodies, and have carried into their new existence an angry longing for revenge. Hence, in most countries there is a dread of such harmful spirits. . . . The avenging ghost often comes back to convict the guilty, and appears in all kinds of strange and uncanny ways. (Dyer 64)

This leaves the potential buyer with not only the possibility that he or she will be haunted, but that they will be haunted by a malicious being instead of a Casper-like creature who only wants to be loved. Thus, along with the normal attendant problems in a new home, such as the furnace that was working when the house was viewed and no longer is, is the possibility that an invisible denizen will be attempting to cause physical or emotional harm.

Stories of malevolent hauntings which appear to be direct results of that person dying, usually violently, within the confines of their home abound in many countries and over a great period of history.⁴⁵ I have chosen to offer up a few of these narratives as examples in order to contextualize the fear—as opposed to actual experiences—expressed by many of my informants and that seem to have been instrumental in a review of stigmatized property laws. In fact, there is a significant history of homes being devalued due to hauntings of the type I am discussing. The first is from Camille Flammarion, whose excellent collection *Haunted Houses*, is well researched and, though I have searched out other sources, relates sufficient hauntings narratives of the sort relevant to this thesis on its own:

Now M. Maxwell, Advocate-General of the Court of Appeal at Bordeaux, has quoted decisions of several parliaments which, in the eighteenth century, cancelled leases on account of haunting. . . . The Journal des Debats of April 18, 1912, reports the following:

Mr. Mark J. Denterlander owns a house at Chicago[...] The rates commission assessed that important property on the basis of

⁴⁵The earliest such I have been able to locate was recounted by Athenodorous in Ancient Greece, involving a house where the rent was suprisingly low due to the fact that no tenant could stay the night without being utterly terrified by a spectre in chains (Cohen 35-7).

a rent of 12,000 dollars. Mr. Dentelander protested. Instead of benefiting(sic) him, his house had been nothing but an annoyance. He had all the trouble in the world to let it because it was haunted. A young woman had died there under mysterious circumstances — probably murdered — and since then every tenant had been awakened by moans and cries. [...]One after another had given notice. For that reason Mr. Denterlander asked for an abatement. After discussion the commission agreed, and lowered the basis from 12,000 to 8,000 dollars. (95)

Another narrative of a property being devalued, in an even more drastic fashion than above, is recounted in a collection by Charles G. Harper, also entitled *Haunted Houses*. In this case it was not so much the tenant who was reluctant to live with a ghost, but that his support staff reacted fearfully in response to the house's reputation, with lasting repercussions to its owner:

"The Poet's Experience"

. . . As he sat quietly in his study, the door would open. He found the obvious explanation to be absurd. "Draughts do not turn door handles—and on my life, the handle would turn as the door opened, and no hand was visible."

. . . There was however, a common reputation and local tradition that an old farmer had strangled a child fifty years ago in the vicinity of the house. The servants having incontinently fled, the poet was constrained to throw up his lease and do likewise. . . .

As a result of this, it was complained, the house remained empty, the best offers received being for £500 for the purchase, and a five years' tenancy, with one year rent-free in which to "lay" the ghost. (57-8)

It is just this kind of experience which seems to have fed the images in works of horror fiction on the subject of hauntings. If the emotional residue of a man who strangled a child can remain for fifty+ years to terrorize a home's occupants, it is just as plausible that a house wherein a man killed his family (*Amityville Horror/The Shining*) could actively work to harm its new tenants or that the residents of a graveyard who had a housing development built over their remains (*Poltergeist*) could rise up in protest to attack the families who lived there and destroy the neighbourhood. While the images in popular fiction tend to be more extreme than those collected by the likes of Finucane and Harper, they seem to have risen from the same seed.

While ghosts obviously can and do drive out tenants and lower property values, this does not seem sufficient explanation for the fears expressed at the thought of living with them. It seems logical that, were there not some greater difficulty associated with sharing a home with a deceased resident, the issue would not be as problematical in regards to sales. Those of my

informants who expressed reluctance to share tenancy had more concrete fears in mind. As was demonstrated by their earlier comments, the relative malevolence of the ghost is a far stronger motivator than any other factor.

Louis Jones (1944), in his study of ghosts in upper New York State, noted reasons for persons returning as ghosts, including:

- (a) Ghosts come back to complete unfinished business. . . . Priests return to sign masses for which they had been paid. Others seek to comfort their loved ones, to hunt their decapitated heads or missing arms or legs, to see to the paying of their debts, to ask forgiveness, to obtain reburial, and a variety of other tasks they could not complete when living.
- (b) They warn and inform. . . .
- (c) They punish and protest. Faithless lovers, disobedient children, intruders, the ghost's murderers, thieves, agnostics, card players. . . . One returns and will return until justice is done in his name, while others annoy the tenants of their former homes.
- (d) They guard and protect. . . .
- (e) They come back to reengage in their lifetime activities. . . .
- (f) They come back to reenact their deaths. One man who died putting on his pants has been seen several times by his relatives going through the same awkward procedure until he drops over as he did at the end of his life. The suicides do it all over again and our Horseman of Leeds drags his victim over the Green County roads. (245, emphasis mine).

While all of the above instances could be disconcerting for an unwary tenant, those that I have emphasized, particularly that of the suicide reenacting his or her death, are the popular images which tend to evoke the most concern. Living in a house where someone had suicided would be one thing, seeing her shoot herself over and over would be quite another. In addition to this, Jones' collection supports the fears of my informants by his breakdown of the history of the substantial number of ghosts who died:

The largest number of these were murdered, and while murderers seldom return, the victims of murder seem particularly restless. Accidental deaths account for almost as many ghosts as murder. They died in various ways: drowned, killed in battle, in duels, fires, railroad and automobile accidents . . . and at the end of a hangman's rope. Another active but unhappy company are the suicides. (244)

While I, personally, have a difficult time envisioning death "at the end of a hangman's rope" as accidental/natural, it stands to reason that the deceased in all the above cases would have unfinished business, which, as has been stated, is a principle

reason for the dead imposing themselves on the living.

If a ghost is motivated by unfinished business due to the relative suddenness of their demise, it stands to reason that the victim of a deliberate death is more likely to be prone to torment the present owner than one who passed on peacefully.⁴⁶ However, malice toward a new occupant is expressed in more than one form. There are ghosts which simply seem hostile to a new presence, such as the one in another account by Camille Flammarion:

Miss K. was caressing a kitten in her lap, when suddenly the animal got restless, rose, and arched its back with every sign of terror. Then Miss K. saw in an easy-chair close beside her, an old hag, with an ugly, wrinkled face, fixing an evil gaze upon her. The kitten went wild, and jumped frantically against the door. The terrified lady called for help. Her mother came, but the phantom had disappeared. It had remained visible for about five minutes. It appears that in the same room an old woman had once hanged herself. (56)

Other spirits can express such ill will in fashions that are actively dangerous to the living:

A lady . . . became suddenly very unhappy by the

⁴⁶Though, as will be shown in the forthcoming chapter on issues of shared space, this is not always the case. Even someone who died naturally can be belligerent if they so choose.

simple fact of having gone to live in a house which was really quite pleasant and convenient, and the feeling of moral depression which invaded her . . . when she went into the best room of the house. . . . there she felt an irresistible impulse to throw herself out the window. . . . Under such an obsession the lady had to remove to another house. . . .

I found that it had been occupied by a gentleman whose wife, afflicted by suicidal mania, had thrown herself head first from the window of the best room and was killed on the spot. (Flammarion, 178)

While living with a ghost that fixes "an evil gaze upon" one may be disconcerting, the thought of sleeping in a room in which someone had not only suicided, but who also appears to want the living to follow suit would be more than sufficient cause to drive most of us from the home. That a restless ghost may not only wish harm to the percipient, but have the power to follow through on that desire may be an unspoken fear behind much reluctance to live in houses where deliberate deaths have taken place.

Informant Encounters

While it would be possible to go on ad infinitum with the literature of houses wherein it is uncomfortable at the least, and

dangerous at the worst, to live due to the death of previous occupant⁴⁷, to do so would serve little purpose, as the majority of the experiences had by my informants are far more prosaic.⁴⁸ This is not to say that all of those I interviewed had completely pleasant experiences with the ghosts they encountered. There have been moments of unease, fear, and even potential danger as each of them came to terms with their living situations. However, because these experiences do differ significantly from those in horror novels and movies, it becomes important to compare and contrast the "fiction" with the "fact" in order to place the images in actual house-purchasing decisions.

Much of how the circumstances worked themselves out seems to have had to do with the attitudes of the percipients. My informants, as a rule, did not react to the manifestations with terror, but rather approached them with equanimity, or even downright indifference, such as Brent's attitude toward the apparent ghost of a suicide:

⁴⁷This subject will be touched on again briefly in the chapter on the impact of rumours on house-sales.

⁴⁸I have chosen not to include the most dramatic in this chapter at all, as it seemed far more appropriate in the discussion of issues of space between the two types of tenant — the living and the dead.

Julia: Was this your house that the guy shot himself?

Brent: Well, it was his house at the time.

Julia: What happened?

Brent: I understand that he had financial reversals, and his wife ran off with somebody and so he shot himself in the foot of the basement stairs.

Julia: Did you know

Brent: 1951

Julia: Did you know that someone had shot themselves in the house when you bought it?

Brent: I think so.

Julia: That didn't effect your decision to buy it in any way. And then your kids started . . .

Brent: Well the boys were little, maybe a year old, and they kept talking about a man, who would watch them and he wasn't a bad man. He didn't scare them. He seemed like a friendly man and he floated over them, and they were very consistent in their talk about that and not every day but a lot of the times he did and interestingly prior to their telling me this I had the strangest feeling that I wasn't alone, that I was being up there and I don't get those kind of feelings. After about a year of those things they said he seemed happy. We didn't see him anymore and that was the end of it.

Julia: There were no other ghostly activities or anything, it was just that?

Brent: Not a thing.

Julia: He didn't, they didn't chat with him?

Brent: He smiled at them. (Personal Interview #17)

On the surface there is nothing in this situation for anyone to react badly to. The ghost was innocuous and did nothing, but

observe Brent's children. However, it would be very easy, especially as this man had died violently, to infer a darker intent on his part. After all, in the aforementioned *Poltergeist*, the dead carry off a child, rather than simply smiling down at her. Brent did go on to state that he neither believed nor disbelieved in ghosts, which may have been part of his equanimity.

Calvin, who is convinced his home was the site of two less-than-pleasant deaths, had some mildly distressing encounters with his "roommates" upon taking possession of a new home. Despite some moments of fear, he has come to terms with their presence, managing to strike a balance between them:

Julia: Is this house haunted that you live in now?

Calvin: Well, I wouldn't say that I've seen apparitions of ghosts or anything, but there's been strange occurrences. The first thing that happened is that, the people I bought the house from, weren't quite out . . . They were almost done and I came in the house to look around to see if they'd gotten everything out and I went down to the basement to see if it was clean and it was, so I went back to where I used to live and started loading stuff in the truck, came back and I went down in the basement—flooded, 'bout two inches of water but it was coming just from one specific foundation wall . . . So I vacuumed it up, it was about 25 gallons of water and it's never happened again. Strange it was late November, it

hadn't rained or anything. . . . Bizarre.

Julia: Did it make you feel like you weren't welcome in the house?

Calvin: Not at first but then, I put out an antique dresser upstairs with the side rails that hold the mirror, y'know? I put it in the corner and started to set my house up, and tightened the nuts. I turned around and was digging in a box or something, this mirror started spinning so I just tightened a little more, y'know, thinkin' I just didn't get it good enough. And it just started again. It wasn't even a . . . it was just a slow, steady, almost like it was powered by itself, it didn't go faster or slower, it just kept going. So I took pliers to it, finally tightened down and that stopped. I think the most bizarre thing that happened, I was going to I think, a Christmas party and the house was fine and all set up and everything where it was supposed to be and I was looking for this specific pair of pants and a sweater and I can't find them anywhere. And uh, I bought the house with the closet kind of unfinished so it had sheet rock over the door opening but there was probably a two-foot space below where there was just a hole. And I'd put this seat-back cushion for reading in bed and a basketball in this hole so my cat wouldn't go in it, so I'm looking around for these clothes and I literally just tear the closet apart trying to find these pants and this sweater. And I finally just gave it up in frustration . . . So I come down here and I'm thinking about where it could be, and I know it was up in that closet so I go back up there and there's my sweater and my pants, hanging out of the closet. . . . That's when I, I did sit on the bed and I was literally shaking going 'Now this is gettin' too bizarre.' And I knew it was something in this house and I just sat down and I said 'y'know I've had experiences with ghosts before and you're starting to scare me and I don't wanna be scared. You're welcome to stay here as long as you want, just don't scare me.' . . .

Julia: Do you know anything about the history of the house? Like why anything like that would happen?

Calvin: Um, it was originally built in Kirby and moved here in 1917. And I haven't got proof, but I think two children died in it that were asphyxiated by the coal furnace. If you go downstairs in the basement the sub-floor is perfect. . . . It doesn't look decayed or rotted it's just like, in perfect shape.

Julia: Like someone was looking out for it.

Calvin: Perhaps. My ex-girlfriend was here one night and said she saw them, she woke up from her sleep . . . at the top of the stairs. I can't, I didn't see it so I don't know. This is shortly after all this had happened, I don't know if she was just scared or workin' things up in her own mind or what. That's what I understand is those kids killed by the furnace, or smoke. I don't know. (Personal Interview #21)

While his ex-girlfriend may have been sufficiently influenced by her mental picture of the two dead children to see the children and be upset by them, it is obvious that beyond specific instances of interference in his life, Calvin is not disturbed by finding himself sharing a home with two ghosts, particularly as there are currently only minimal traces of their presence. In addition to this, when asked, he declared that he would have purchased the house, even had he known:

Julia: Have you heard any rumours about the former occupants of the house having any problems with ghosts?

Calvin: I think they have, but I think they weren't going

to tell me for fear I wouldn't buy it.

Julia; How do you react to that?

Calvin: It's fine with me. I got a great deal on the house. . . . Actually it's kind of neat to me. I think it has more character being haunted than just as house.

Julia: As long as it doesn't seem hostile to you you're content?

Calvin: I've lost important letters that were sitting on the arm of the couch that needed to be mailed and they just disappeared. I never found them either. . . . I am as good as I can be and I think sometimes when I do things wrong. Y'know when I, I think sometimes it happened when I've done damage to the house on purpose or out of anger.

Julia: They're a check on your behaviour.

Calvin: Now, when I remove a fixture, I don't throw it away. I put it in the basement. I believe its enough to have respect. (Personal Interview #21)

Another informant who, according to her real estate agent, once bought a home because she'd heard it was haunted, had an experience which was rather more unsettling than those which I have thus far recounted. However, she was able to find an explanation for the event which gave her peace of mind. Furthermore, the incident was a one-time event and, due to its nature, unlikely to ever reoccur:

The story about Mrs. ___ now, she was dead eight years in July. We had bought the house 11 years ago and I used

to go down and see her 'cause she did live in the house and her husband died there and it was only her and her husband and she was in a wheelchair so she went down below . . . [with her daughter Elly]. So anyway, the night before she died or the same night she died, it was in July . . . and Derrick was out watchin' TV and I swear to God, noise you wouldn't believe. I can't even explain how loud and what the noise in the hallway was like. Here's him in the kitchen and here's me in the bedroom and the noise was right there in the hallway. And I stepped right out of the bed when I heard it , it was like a big jolt and Derrick called out to me "Sondra what was that?" and I said "I don't know. But I'm glad you heard it too. Cause I thought it was only me. . . . I said 'I bet you that big picture in the hallway is after fallin' down. That might account . . ." So Derrick went to check, came into me and said "No, its not that. It's nothing in the hall. Nothing's fallen down. That picture's still hanging up" and all this right? So I didn't know what it was.

Bout five minutes later. Big Bang again. Just like the same big old loud noise, right in the hallway too, right close to the front door. And meanwhile I'm sittin' up in bed and he's back, saying "did you really hear that?" And all this. And he said "What do you think it is?" An I said "I dunno . . . But I tell you what I think it is. I bet you that it's Teddy __," that's the old man that lived in the house. "I bet you its Teddy __ comin' back to see what you're doing with his house." Cause we were renovating up there, knockin' down walls and lowering ceilings and doin' all kinds of stuff like that right. . . . And Derrick said "You're cracked."

So he went on, back out in the living room and I went to sleep. Never knew no more about it and so anyway, next morning I gets up and I goes to visit my mother and she told me then about Mrs. __ dying. She said, "I guess you know about Mrs. __ dying last night."

. . . And I said , "Mrs. __ died last night?" And

mother said. "Yep." and I said, "Well my dear, she was up to the house before she died." And Mother said, "Why do you say that?" I told her then about the loud noises we heard and that. . . .

But about two weeks went by anyway and up Elly comes knockin' on my door and I goes out. . . And Elly says "'Sondra, I got to come in and tell ya what happened the night Mama . . . died." She said "She really, really wanted to come up here." . . . I said, "Well whadda you mean she wanted to come up here? Why didn't you bring her up here?" . . . "Mama was sittin' in her chair, like she is all the time . . . (. . . she never got out of that chair by herself, ever before) but that night she actually got out of the chair and walked toward Lily's front door . . . And uh, she said . . . she was goin' home. And she had her hands on [the door]" Elly said if the door hadn't been locked, she sure her mother would have been out on the step right. . . . And she[Elly's mother] said "You don't understand, its raining out and the porch is filling up with water, . . . the door is bangin' and I gotta go up and close the door so the rain don't get in the porch." That's what she was saying she wanted to go up for. . . .

I couldn't wait to go and tell my mother about what Elly . . . to this day . . . we have never heard that same noise again. (Personal Interview #13)

Calvin was able to establish a balance between his possession of the house and the children he believed occupied it with very little difficulty, and they never seemed actively hostile to his presence. As with the case of Brent's ghost, they seemed more interested in some limited form of communication or

attention than anything else. These are not primarily the type of ghosts which seem to arouse the most fear in potential buyers. Sondra's ghost was somewhat closer in nature to the kind which incite unease, but while the manifestation can almost conclusively be linked to a specific death, by its nature as an isolated event, it seems to have left no lasting mark on Sondra's psyche, nor is it likely to impact on the value of the property. Nor have any so far experienced physical attacks such as popular culture images suggest should happen in a place where someone died "before their time."

This is not always the case however. Another informant lived in a house where he and his roommates had several encounters with a ghost who not only seemed hostile to their presence, but apparently had a history of similar behaviour to previous tenants. This behaviour included incidents similar to what Calvin experienced, but with the addition of actions which could have caused direct harm to one of the tenants:

Lyle: the house felt weird and we had been talking about these ghost stories that happened in this other house.

And for probably about a month, I was noticing things. . . . Things would be missing or they would have been moved upstairs, when I left them downstairs, things like that. And of course, that's something you never say to anybody cause you always go, "Aw fuck it." But it just, it wasn't until after that you say to yourself "I couldn't have left my coat that many times upstairs. I could not have left my wallet there, I would not have put my shoes here. I didn't do any of these types of things." But at the time, every things looks like coincidence and everything did look like coincidence. . . . One particular night, Leah was in the bathroom upstairs, whatever happened she came back downstairs. The mirror had fallen off the wall on top of her. I came out, 'cause she called out to me, and I can remember looking up over the staircase, and I can remember seeing somebody at the top of the staircase, knowing that it was not her. I can remember calling out to her and telling her to stay where she was. Now, I didn't go up over the stairs and I don't know why I didn't go up over the stairs. Some reason anyway.

Julia: Could you tell the sex of the person?

Lyle No. I just knew it wasn't her.

Julia: Was there something you felt from it that you knew it wasn't Leah or did you just know it wasn't Leah?

Lyle Didn't look like her. . . . the person was about middle of the stairs. It was a woman . . . no way to tell the age but I got the impression she was an old woman, but she wasn't really that old. Dressed in grey. Best thing I could describe it as is an old Salvation army uniform type thing, with a jacket. Those really long skirts that go right to the floor and like a confederate grey. I knew the colour was there, I could see, like the person looked real. Like real flesh, looked just grey, but looked just really angry. . . . Not pleasant. I can remember asking who the person was, what they wanted, and I also knew at that point that the person was not real. . . . I never did get a response, person never spoke. I can't remember the rest of the details of that

night. It passed anyway.

[For reasons unrelated to the haunting the group in the house decided to move out]

. . . we had a garage sale in the garden, and we put in the paper and that stuff so we were expecting a lot of people. People were coming and going all day. And this guy drove up the driveway, got out of the car, came over and he told me he had lived in the house as a kid, and I don't even know why I said it that way. I said "So you know the woman that lives in the house." And it was like he never even hesitated, "Yeah. Oh Yeah." "Who do you think it is? (Like) Who was it?" He said "Well there used to be an orphanage here in the last century," and my estimate of it, and I think myself and Leah talked about it afterwards. We thought it was the matron of the orphanage, we didn't know why the person was there. All I know is, I didn't feel good about the person, I thought a lot of the discord in the house had to do with the way the house was . . .

Julia: Leah said that the guy said his wife died in that house?

Lyle Yep.

Julia: But it was not her ghost on the stairs?

Lyle No, no. That's right. Cause I asked him that. The other thing was, I told this story to a couple people at different times and I told it to somebody one night and they said "Oh yeah, my mom and my dad lived in that house when they were first married and my mother was always being tormented by something in that house." (Personal Interview #14)

Lyle and Leah's ghost is more representative of the kind encountered in folklore and fiction—the ghost who physically attacks those with whom they are forced to share space. This

kind of ghost even works to poison the atmosphere in hopes of driving tenants out, and who works these torments on a succession of tenants, implying by her actions that this spirit cannot be reasoned with or placated and has only the purpose of making others miserable. While dropping a mirror on Leah's head was not a life-threatening attack, it was far from benign and could have been injurious.

While rentors tend to be less concerned about death and ghosts in their homes than buyers—very likely due to the more temporary nature of their planned stay—it is unlikely that either would be pleased to hear: "And this is the bathroom where the ghost dropped the mirror on me." Anyone with a willingness to believe in revenants would at least be given pause by such a statement. Buyers, however, are not the only ones who have to cope with the fear of ghosts.

Selling Haunted Houses I

Frequently, haunting is not efficacious to the sale of a property. According to Dr. Roger Pile, a parapsychologist who "rescues"

ghosts from houses: "The idea that ghosts are in a house seems to depress the selling price" (Ingersoll, 88 - 90). While it is the buyer who must ultimately live with any spectres in a home they have purchased, if the house is haunted in the first place, the seller and more importantly the real estate agent has to cope with the impact that hauntings may have on the buyer, in addition, sometimes, to their own fears of the unknown.

One serious difficulty for those who might be reluctant to purchase a haunted house is its appearance. That is, that haunted houses rarely look like haunted houses. Charles Harper, in bemoaning the demise of proper houses for haunting describes what is necessary and what antithetical for traditional ghosts:

Only, it is a little unfortunate that much of the appropriate setting of ghost-stories has been destroyed. There are many blood-curdling legends, but their native homes have largely been demolished, and in some cases rebuilt; and ghosts do not very appropriately haunt houses less than a hundred years old. Ghosts and newly completed—even newly furnished—houses are antipathetic things. You require, for a moderately complete installation, a manor-house, with wine-cellars, a butler, old family portraits (not necessarily those of your own family), and if you can manage old oak paneling and tapestry hangings (let them, if possible be "arras") so

much the better. (14)

Louis Jones provides support for this contention when he points out:

For ghostlore to thrive one needs a section that has been settled for a considerable length of time, where the houses are old, and at least a fair share of the population is permanent. The provides for the localizing of stories in particular houses and permits the material to thrive among a people who are familiar with the families involved. (249)

As Harper suggested, there are fewer and fewer homes and/or neighbourhoods which fit such descriptions and make the prospective buyer think at first glance, "That place has to be haunted." One is not able to effectively rely on romantic images of crumbling buildings to prevent living in a haunted house. Rather, it appears that the majority of haunted houses today look as normal as any other, as will be demonstrated shortly by the experiences of an Oregon Real Estate Agent named Ken Pliska.

Appearance aside, the majority of the agents I spoke to had little or no experience in the area of haunted houses, and none to which they could conclusively tie the hauntings to a death in the home. Some did, of course, find themselves presented with

rumours about ghosts and their impact on certain properties ,
regardless of whether they showed them or not:

Sarah: No, I haven't had to deal with it but there are two houses on ____ Road that claim to be haunted . . . for the longest time they couldn't keep people, people couldn't stay in the house and there's another house on ____ Hill. . . . A friend of mine stayed there and she moved out of the house, she thought the house was haunted.

Julia: Have you seen that happen more than in these couple of occasions?

Sarah: I don't know of any property has turned over because of that. . . . Well like the house on ____ Road, I knew the woman who owned it and she said the people who, people kept moving in and out, they thought the house was haunted. I didn't ever find out any story behind. Anybody dying there or any bodies or anything, nothing. (Agent Interview #6)

While Sarah knew of houses that were very likely haunted, Joan experiences a rather different problem—a house that lacked evidence of being haunted, but was presumed to be so as a result of its history:

Joan: There is a house on ____ Street. And I guess this may be the hesitancy of some agents, because they don't want to slur a house. And there is a house on ____ that has this connotation. The murder occurred 40 years ago. (Agent Interview #16)

Fortunately, not all haunted houses are difficult sells for agents or lead to discomfort for the buyers:

Joan: There's a house in Cupids. Where the old fella died apparently, I think of natural causes, and he comes back. The present owner has seen him, she is totally convinced she's seen him. She's come down over stairs and he's been there. She 's not afraid of him. (Agent Interview #16)

There are even some occasions where it is not the buyer who is too disturbed by a ghost to view a house. In an article entitled "Real Horrors: Agents get the creeps when the house has a past,"⁴⁹ Sonja Johnston writes of an encounter a real estate agent had with two young ghosts. Though the revenants seemed innocuous, the experience was sufficiently upsetting for him to refuse to list the property:

. . . Ken Pliska . . . says he never thought about haunted houses—until a year and a half ago when he previewed one. . . .

"I had my camcorder and was taping as we went through . . . In the parlor on the main floor there was a shy little girl watching TV. As we went upstairs, other

⁴⁹*The Oregonian*, Oct 31, 1993, H1.

agents were coming down, and one said, 'Oh, there's a little girl up there, try not to scare her.'" . . .

A mirror sat at the far end of the room, and in the mirror he saw the reflection of a little girl, hiding behind the bedroom door. . . . Other agents joined him at the door, remarking on the apparently frightened child.

Back at his office, Pliska overheard the listing agent talking with the broker. Did the family have to say they wanted to sell because they believed the house was haunted? Both the mother and grandmother had reported being chased by black-cloaked "things".

Curious now, Pliska asked the listing agent about the family. The agent said Pliska had seen the family outside the house: A mother, a father, a grandmother, an infant and a 10-year-old girl.

Pliska enquired about the other two girls . . . No such people, the listing agent said.

So Pliska got out his videotape to show the girls to the agent. But the girls didn't appear on the tape, although everything else showed up.

Pliska's conclusion? The place was haunted. He wasn't alone—other agents said they'd seen the girls.

The house, a big handsome bungalow . . . recently was put back on the market. Pliska immediately put it on his "I won't show it" list.

Unfortunately, there was no follow-up on whether the sellers were required to disclose their reasons for wishing to sell or how the property fared when it went on the market again. It can be stated with certainty that being haunted impacted negatively on the home. Regardless of whether the price was

reduced in response to the two extra children or because at least one agent refused to even show it, the circumstances could not help but diminish its chances of being sold. Whether Pliska's absolute refusal is an unusual case is impossible to determine, but he is very likely not the only agent who is uncomfortable while showing a haunted house.

Selling Haunted Houses II

Not every haunted house proves troublesome for agents and sellers. In "Ghosts for Sale"⁵⁰ it is observed that:

Ghosts aren't always reckless wraiths that go bump in the night. They can add charm—and value—to a house which might otherwise just be another victim of the property doldrums. Especially if the sitting tenant isn't of the tiresomely mournful sort that wail, clanks chains or frightens the dogs. (37)

This is particularly true, if the place in question is meant to be visited rather than lived in. While it is the rare guest who comes to a hotel simply to see a ghost, it can very often be part of an

⁵⁰"Ghosts for Sale," *Country Homes and Interiors*. Jan 1991, 37.

experience they are looking for. In my own time working at Many Glacier Hotel in Glacier National Park, MT, I encountered a number of tourists who wanted to know if I had seen "the ghost." The first time I was asked this question, I had to confess that I had never even heard of the ghost. Fortunately, the visitor was quite willing to explain to me that when the hotel was still a hunting lodge a woman had thrown herself off the balcony on one of the upper floors.⁵¹ Apparently, she was prone to repeating the incident in front of unsuspecting guests and employees late at night.⁵²

Many Glacier Hotel is not the only lodging to boast of a phantom as one of its "guests," nor is it the only hotel to see it as a possible source of publicity. In the "Guest Service Guide" to the Hotel Boulderado (Boulder, CO), along with its lists of "Fun Things to See & Do," advertisements and historic notes is the article:

⁵¹Another version had her being thrown, usually as a result of her husband having an affair and wanting to be free of his wife. This is not the only ghost in that particular hotel.

⁵²One of my co-workers who stayed post-season to do maintenance work told me about running across her, but this was several years ago and I can neither remember specific details nor locate him to elaborate on them. I have not received an answer on queries to the company that holds the lease on the concession.

"Ghost Continues to Haunt the Hotel Boulderado."⁵³ This brief narrative by the author of a book about the history of the hotel describes a room in which ghostly events have taken place.

The specific incident she shares begins with a doctor and his wife checking into the Boulderado for a conference. The couple were assigned a room: ". . . that a few months earlier had been assigned to a spiritually-oriented Native American. He had refused to stay in it because of a feeling he had when it was shown to him." The doctor's wife felt no such discomfort, and settled down to watch a movie while her husband was in a meeting: "At noon I heard a woman's voice, and maybe a baby's in the room," she said later. "I wasn't scared, and the thought crossed my mind that some presence might be there, but I decided not to tell my husband or anyone else about it." According to the woman her husband did not believe in the supernatural, but shortly after his own return to the room, he too: "heard a woman's voice, and said to his wife, 'I think this place is haunted.'"

⁵³Pettem, Silvia. "Ghosts Continure to Haunt the Hotel Boulderado." Hotle Boulderado Guest Service Guide, 1997: Loveland, CO., Michael Spain and Associates, 36.

The doctor also reported seeing a shadow where one should not be and a "white filmy thing" (36). None of these incidents were sufficient to frighten the couple away and they spent the night in the room without seeing or hearing anything further.

The story becomes more interesting to both the reader and the couple when, in the morning, as they were checking out, they recounted their experiences to the desk clerk and learned that: "other guests had reported similar experiences in the same, and only the same room" (36). It is obvious that the couple did not frighten easily, nor did the incidents seem intended to have such an effect. What is more interesting is that the hotel saw fit to print the story in their own publication. While the room number is not mentioned, such a narrative is more than likely to lead most guests to wonder if it is their room in which these events took place. This seems to be the intent of the publication, possibly with the additional hope that they will tell their friends how much they enjoyed their stay in a "haunted hotel."

In this case of course, it helps that the ghost was not prone to suiciding in front of guests or, like those in "*The Shining*" trying

to take the unwary with it. Still, the implication is that ghosts are good publicity. Whether the attitude toward this would be the same if it were learned that a mother and/or child had died in that room is a question which has not yet been answered.

Conclusion

While certain of my informants did have experiences with ghosts, some of them even comparable to those presented in a popular culture context, I am forced to agree with Louis Jones' findings on the ghosts in New York:

While most of the actions thought to be common among ghosts (chain clanking, cemetery haunting, and so forth) can be found, they are by no means so widespread in the popular ghostlore as we have been led to expect. The ghost who is very like the living is far more common than any other. . . . Most ghost are found to be harmless, many of them even helpful. Violent death is frequently a factor in becoming a ghost. . . . (253)

If I had been specifically seeking out ghost narratives, I might have found a greater or lesser degree of accord with Jones than I did, but what I have found—that the images he discusses, among

others, can be of great influence on the emotive reactions of my informants—leads me to conclude that he is overall correct: ghosts behave in ways often much different from those our culture leads us to anticipate.

Whether due to the influence of popular culture images, the images presented in folk narratives or their own personal experience, hauntings have proven to reduce property values or impact on sales, including the present day case of *Stambovsky v. Ackley*. However, even with the many intimations of physical danger to the resident of a haunted house, the substance of my informants' feeling about ghosts appears to be along the lines of: "As long as they were benevolent, I wouldn't care" (Sherry, Personal Interview #18). The majority of the reluctance expressed is similar to the reactions to houses in which people have died; the less trauma associated with the event—either to the living or the dead—the less likely there will be any complaint. This explanation of course, does not cover everyone. Ken Pliska, for example, was shaken enough by two apparently innocuous and shy ghosts to refuse to even show the house, and my informant

Ben, who will have nothing to do with a house where someone has died, included haunted houses in that equation. However, by and large, it seems to be the hostile ghosts which are deemed sufficiently unacceptable to damage property values: unless that property is a hotel. Then, even an angry spectre—provided it does not possess the ability to physically endanger the guests—can add value and interest rather than detracting. This is so, even it is something we would generally refuse to live with in our own homes. Like riding a roller coaster, it appears that we will pay for the chance to be frightened, as long as we know we can return to the safety of our empty homes when we've had enough.

Chapter 5

Issues of Space Between the Living and the Dead

We chose the room above the carriage entrance for our bedroom. The first night we slept in it, I awoke with a start at 12.45 a.m. . . . under the most painful impression that something horrible was hidden by the ceiling of the room. I had no clear idea what this might be, but the obsession prevented my sleeping . . .

The next night I woke up again at exactly 12.45 [sic], and for several weeks the same sensation came to me, with a persistent insomnia until 5 a.m., and the fixing obsession that something horrible was concealed by the ceiling.

As a consequence of this agitated state of mind and insomnia, my health was seriously shaken. This forced me to leave the house and go to my brother, who lived at Cambridge.

While I was there I was informed that the ceiling of our room had fallen and the bed of the

room above ours had fallen on our bed. I therefore found that the subjective impressions I had experienced were sufficiently justified, and thought no more about it. But several weeks later I was told that the fall had disclosed the mummified corpse of a baby, with its neck violently twisted. Evidently a new-born baby had been carefully concealed there. (Flammarion 179)

Beyond emotional reactions and things which go bump in the night, there are two further issues which need to be touched upon in reference to death in a home. These are the specific impact of rumours on property values and how someone who is living in a house where a death took place chooses to cope with whatever issues they, or the former occupant of the house, have regarding sharing the space. In this chapter I will approach shared space and rumour, leaving notoriety for Chapter 6.

The question of space is really a two-fold issue in the context of this thesis. It can be either simple discomfort at living in a place where death has taken place, or the more difficult one of sharing living space with a ghost, which, particularly if the ghost is antipathetic to the current owner, may be a less than

reassuring experience. Though I plan to discuss the ways in which various informants have come to terms with the unseen inhabitants of their homes, I will be dealing primarily with the former problem in this chapter as, fortunately, I have only garnered one personal narrative of an overtly hostile manifestation. While some of my informants had personal issues with their visitors which needed to be worked out, there were no other open acts of animosity.

In light of this I plan to begin with a description of space as it traditionally tends to be applied to otherworldly manifestations such as described at the beginning of this chapter. I will then discuss space in terms of its particular application to this thesis, theoretical ways in which space issues can and are dealt with, and finally I will address the personal experiences of my informants regarding their own situations.

Spaces Ghosts Inhabit

In Chapter 4 I shared Lyle's narrative of a specific encounter he and his roommate Leah had with a former occupant of the house

they were renting. In addition to its nature as a haunting by a resident who is speculated to have died in situ, there are specific points in the telling which are pertinent to spaces used by ghosts. The first is that the ghost had an apparent predilection for attacking Leah in the upstairs bathroom: "One particular night, Leah was in the bathroom upstairs, whatever happened she came back downstairs. The mirror had fallen off the wall on top of her" (Lyle). The second is more traditional in that the spectre manifested itself on the house's staircase: "I can remember seeing somebody at the top of the staircase, knowing that it was not [Leah]. . . . the person was about middle of the stairs. It was a woman. . . ." These specific statements are important due to certain characteristics consistently reported as present in ghost encounters.

Ghosts are well known for drifting along passageways, going in and out of doors or, like the spectre that Lyle saw, up and down stairs. In other words, spirits frequently inhabit those areas which are not "real" places in and of themselves, but rather which mark the transition from one place to another. Elizabeth Tucker

discusses this predilection and the general awareness of it in her work on the ghost-stories children tell:

Pre-adolescent girls' stories show a predilection for space that is vertical or horizontal, heavily shadowed or brightly lighted, extremely dangerous or comfortably benign. In other words, it is space defined by sharp contrasts. Especially in the ghost stories that young girls enjoy telling, there is a distinct tendency to separate frightening from nonfrightening spaces. (19)

This predilection was demonstrated in some of the collections in my earlier chapter on haunted houses, but have been an almost non-existent phenomenon in the experience of my informants. However, another common folkloric "haunt" of the living-impaired, (the spot where they died, or where something significant to their time alive took place) has cropped up on occasion. This corresponds to Jones' assertion in respect to a high percentage of ghosts choosing a space which had significance while they were alive.

All of my informants who encountered spectres, had experienced some demonstration of a spatial preference to one

degree or another. However, only one found a single point of manifestation:

Like for instance, my uncle had house, uh, there a few years ago and it was in the center of the city and I was out visiting him one time and the bathroom there, you had to go through his bedroom to get to that particular bathroom. And when I went through the bedroom I could feel cold, and I didn't know what it was, I get shivers just as I'm talking about it, and I didn't know what it was but I spoke to him about that and apparently there was a guy there who did commit suicide, in that room, in exactly the same place where he had his bed. Actually there was times when he woke up at night, he felt like there was pressure on his chest. But I felt like it was somebody there, I felt like I was being watched by somebody. I couldn't wait to get out of the room. I only went over to the house once. And my aunt, she visited there a year after and she walked by the room . . . and she said "I get some cold when I go past the room." So she felt it that way. Uh, that house burned down. Actually he had tenants upstairs? And they left fat on the stove and the house burnt down. Every part of the house was burnt. That room was *not* damaged. That one room. (Ben Personal Interview #12)

The manifestation fits Jones' description of a site where someone died, particularly through suicide.

For other informants there seemed to be places where the

spirits manifested themselves more frequently than others. Whether this place was where the previous occupant died or meaningful in some other way was impossible to ascertain. In Brent's case, however, from the previous chapter, while the deceased's presence could be felt in various places, the house's former resident showed himself solely to the new owner's children, indicating that they were somehow significant to him.

Along these same lines have been some comments by informants that—regardless of apparitions—their knowledge of where the person died would affect them. That such knowledge might lead them to expect to see or feel something in a particular spot, or at the very least picture the event when they passed near, is demonstrated in statements made by Diana and Jay which I presented in Chapter 3:

Diana: Also knowing that the murder occurred and where (I'd have to ask) would make me remember it every time I entered that part of the house etc. (Personal Interview #9)

Jay: Say, for example, that someone had hung themselves in the bedroom. I would probably get creeped out by that more than I would if someone had just shot

themselves in the same room. Hanging leaves too much of an EC Comics type image in my brain; . . . the imagery of each particular situation would have a different effect on me, though. (Personal Interview #6)

These statements and others like them seem to indicate that space is an issue for all involved parties, although for different reasons. For both the living and the dead there are age-old problems which arise when two or more persons are sharing "living" space, for example, which of them is to have primary control over the same. Another issue relates to how the living act to mitigate part or all of the psychological damage they might accrue by residing in a house where someone has died, the means of which will be discussed shortly.

Also in Chapter 3, Diana mentioned: ". . . mak[ing] it as positive as possible by doing something in remembrance of the pain and suffering that occurred there. A moment of silent memory or a candle to light each time I remembered etc." Such actions are similar in spirit, if not in scope or location, to those described by Kenneth Foote in *Shadowed Ground: America's Landscapes of Violence*, wherein he discusses the "fates" of places

which have been sites of "violence and tragedy": "the stories of these sites offer insight into how people grapple with the meaning of tragedy and reveal much about attitudes toward violence" (7). Foote has divided those reactions into four categories: sanctification, designation, rectification and obliteration. While not all his categories apply equally to the subject at hand, I feel it is helpful to include his summary for the sake of definitions:

Sanctification occurs when events are seen to hold some lasting positive meaning that people wish to remember . . . A memorial or monument is the result. Obliteration results from particularly shameful events people would prefer to forget—for example, a mass murder or gangster killing. As a consequence all evidence is destroyed or defaced. Designation and rectification fall between these extremes. Designation, or the marking of a site, simply denotes that something "important" has happened there. Rectification involves removing the signs of violence and tragedy and returning a site to use, implying no lasting positive or negative meaning. (7—8)

Though all of the above can be and are put into use when a person chooses to live (or not) in a place where someone has died, rectification is by far the most common: as much as possible taking place before anyone is ever shown the home.

Theoretically, rectification functions to banish the dead from the property and set the stage for new life within the walls. In the cases where rectification does not suffice, either for the buyer or the former tenant, sanctification, such as Diana's lighting of a candle, may help to placate restless spirits or ease fears. In the cases I have looked at designation is a *fait accompli*, in that the buyer is presumably aware of events—violent or otherwise—which have taken place in the past, and thus the entire house is "designated" by its continued existence. Obliteration can take two forms in this context. The first is physical obliteration, such as the treatment of the homes owned by Paul Bernardo and John Wayne Gacy: actions intended to insure that there will be no sharing of space whatsoever. The other is an attempt by current residents to obliterate all traces of the former tenant, particularly, if they insist on trying to assert an otherworldly presence.

Rectification, which Foote also noted as: "the most common outcome when tragedies come to be viewed as accidents and when violence is interpreted as senseless," (23) is however, the primary factor in the issue of living where another has died and the one I

will now be focussing on. It can serve two purposes: to prepare a living space for a new occupant, and to claim the space for a current occupant who is having difficulties with a former one. Sanctification may well be part and parcel of rectification in such circumstances, in that memorializing the dead may allow healing to take place and open up the space for the living. The most common means of rectifying a space, beyond the normal steps taken before putting a property on the market, is the house-blessing.⁵⁴ This is most commonly done by a priest or minister and generally includes holy water and prayer.⁵⁵ Some people will routinely perform, or have performed for them, a house blessing every time they move into a new home regardless of its history. Others will do so only if they feel discomfort after they have moved in. Of the two informants who undertook to have their residences blessed, both did so shortly after they had arrived and for reasons of discomfort with what might have been something

⁵⁴I am speaking in purely Christian terms here as I have not come across ceremonies which exist in other cultures in sufficient detail to make any useful comments on them.

⁵⁵This will of course, vary from denomination to denomination. Through no deliberate act, all of my informants who had any direct connections with house-blessing were Anglican/Episcopalian.

left behind by previous occupants⁵⁶. However, it must be said that there are different levels of discomfort, and Mary's experience was much less harrowing than Caroline's:

Mary: Both my roommate and I (who are Christians) felt that there was an uneasiness in the house we were renting so we had a house blessing. The priest walks through the house praying with all the people and then you have a little party afterwards. And the bad feeling went away after that. (Personal Interview #11)

Caroline, by contrast, faced an entity that she believed to be connected to the spirit of someone who had died in the house and which was overtly hostile to her presence. For Caroline to claim the space for herself and her family, she was forced to take stronger steps than the simple ceremony which made Mary's apartment a comfortable place to live:

Before we moved into our house last summer, the owner ___, told me that the first two weeks she lived in the house she kept getting glimpses of a large, dark shadow

⁵⁶It was even noted by the *National Enquirer* (16 January, 1996, p. 2) that "two women moved into the townhouse where Nicole Brown Simpson and her pal Ron Goldman were slaughtered -- then had a New Age guru 'bless' the place to chase away evil spirits." According to the *Enquirer*, the women moved in an apparent attempt to rectify the property by giving it a "lived in" feeling and therefore aid in attracting a buyer.

with a long tail. She described it as shaped like a huge rat-like creature that would slip behind moving boxes and into a storage area in the east upstairs bedroom. She said she dismissed it at first but when it continued to appear, she told it to leave the house and not return. She said there were no other incidents that she knew of . . .

We were in our house for four months without incident. . . . my stepson, and his wife . . . were here for the holidays. Incidentally we had had the house blessed the week before. I'm not sure that this is relevant, but it seems so to me. . . .

the next day [her stepson's wife] wanted to talk about ghosts and said that while she was studying in the TV room downstairs she felt very uneasy—that there was another presence in the room. . . .

Probably a week later, after all company had returned home, Rick [her son] came into the bathroom while I was getting ready for work. "Mom," he said, "the strangest thing just happened. I was going to get my socks out of the closet and the latch lifted and the door opened by itself." . . .

That afternoon . . . I had been making calls to coordinate some meetings, and was just about to dial when I heard "someone" whisper on my end of the line—as though on another phone in the house. I could not understand what was said, but it was in an extremely hateful, vengeful tone. The hair on my arms and neck stood up and the dog, who had been sleeping in my bedroom across the hall, came immediately into the room and was very disturbed. I finished my telephone call and quickly left the house. I had the police come immediately to the house and walk through it. They found nothing. . . .

The next day I decided I wanted to find my rosary, which had been my grandmother's . . . I had run across the rosary while moving and put it in a padded case that closed with a zipper and a snap. When I took it out of the case, the rosary circle was broken and the corpus was

missing. . . . Every time I passed the door of the office the hair on my arms and neck stood up. Something very dark had taken up residence in Ward's office. I finally took my story and the rosary to Father Jack. He told me that he believed the broken rosary to be an outward sign that whatever I was dealing with was real and that it was evil. . . . He offered to come sprinkle holy water in the house, but said that the [Episcopalian] Church forbade any type of exorcism without receiving permission from the Bishop. I told him that I had also talked to another friend who had had several experiences such as mine, and was told that I had to be the one to "take authority" over whatever this was since it was my house. . . . Jack concurred and cautioned me to confront only when my "heart was full" and added that the joy of the Lord would be my strength. He gave me a vial of holy oil he used for anointing the sick [Caroline's son had been having dreams involving angels and putting "glitter" from a vial around his bed, which they determined must be holy oil]. The week that followed was much the same . . . except that by Friday "it" was getting in my face—loud breathing—during the night.

That Saturday . . . I decided the time was right to do my confronting. . . . I put a tape of Episcopal hymns on the stereo and turned it as loud as it would go. I went upstairs, first to my bedroom and drew up the blinds to let the sun in. I felt strengthened and proceeded to the office and began raising the window coverings, which proved to be almost an ordeal, as they kept falling down, as though someone was fighting to keep the sun out. I finally got the first one up and was pulling on the second when a cross Ward had hung on a wall in the room fell to the floor. I spun around then and spoke as loud as I could: "He is risen . . . I order you to leave this house and this property and never to return." As I spoke my legs turned ice cold. (Personal Interview #23)

Caroline repeated the same action in Rick's room, with the identical effect of her legs turning "ice cold." She was then prevented from completion the ceremony by an unusually steady stream of visitors. The house was quiet for three weeks until she was hagged⁵⁷ in the downstairs TV room, the same place her daughter-in-law had felt a presence. The final incident is a further indication of the presence which was inhabiting her house having a distinct preference for some areas over others. The haggling was not the only space-related incident which was visited on Caroline:

Sometime later . . . I started waking suddenly at night . . . I would always look immediately toward the same spot near the foot of my side of the bed, which was near the door to the hallway. I always expected to see someone standing there and would sometimes even sit up, straining to see something that was never there. (Personal Interview #23)

⁵⁷In *The Terror that Comes in the Night*, David Hufford deals with an experience which in Newfoundland is variously described as the "Old Hag," "Hag Rogue," and "Hagging." The experience is defined elsewhere as "night terrors." Its primary defining features are a "subjective impression of wakefulness," "immobility variously perceived," "realistic perception of actual environment," and "fear". Secondary features include: "supine position" (victim of attack has been sleeping on her or his back), "feeling of presence," "feeling of pressure, usually on chest," and "fear of death." (Hufford 25)

After several other experiences, including a dream-vision of what she describes as "tangle ropes" and the water coming on spontaneously one morning as she was preparing to shower, Caroline decided to take further steps to take back her home.

It didn't take long to decide I had had about enough, and had a talk with Father Jack again. He suggested I hang crucifixes . . . in the bedrooms. I ordered ten small ones, hung them between the windows upstairs and a couple downstairs. There has not been an episode since. (Personal Interview #23).

While Caroline's narrative is quite lengthy, I felt it was important to include it in order to demonstrate the issue of space inhabited by spectres; the "something dark" in her house, despite fixating on her, spatially confined much of its activity to her husband's office with secondary activity in their downstairs TV room and her bedroom—which was across the hall from the office. Whether something momentous or traumatic had happened to it in that locale or whether those were simply the areas it chose to contest most hotly, there was a definite localization of activity, a significant question of space. The other point this story

demonstrates very clearly is the act of claiming and reclaiming territory and the steps some homeowners are willing to take if necessary to do so. Caroline's experience is the most extreme of those I encountered in my research, and because of that I felt it offered an important balance to Mary's "bad vibes" and other seemingly easy means of rectifying living space. For example, Calvin's mischievous children who, when he sat down and said: "You're welcome to stay here as long as you want, just don't scare me," ceased to bother him except when they felt he was behaving badly or harming the house.⁵⁸

Another means for rectifying the space one is planning to live in is espoused by the woman referred to in *Elle* magazine as the "Martha Stewart of the Spirits" Eleni Santoro: "uses her psychic powers to neutralize what we used to call 'bad vibes'. You know what I mean: you walk into a house and its perfectly nice, but it gives you the creeps" (48). According to the author, Santoro (Norwich, 48) bases what she does: "on the scientific principle that objects are made of energy and spaces hold energy. . . . After a

⁵⁸Calvin was presented in chapter 4, having purchased a house which appears to be inhabited by two children who died as a result of coal fumes.

while, bad energy patterns build up . . . Santoro comes to break them up." This is done by walking through the home of the effected person, reading an invocation, smudging furniture etc., with incense and ringing a Chinese handbell, with changes and escalations in the ceremony as fits the circumstances. She does her work primarily for real estate brokers with hard-to-sell properties, at least one of which was due to a death. In that particular case the owner: "hadn't made a transition. I could understand why she wanted to stay there; the energy of the house was wonderful" (48 & 50). As a means for rectifying space, Santoro's method has proven effective enough for her to claim fees up to \$2,500 (U. S.), depending on the size of the home.

Not all attempts at claiming the space occupied by someone no longer living have such a salubrious effect. In 1984 a story appeared in *Fate Magazine*, entitled "Ousted by a Ghost," written by a woman who encountered a ghost with sufficient space issues that it managed to have her evicted:

When I rented the apartment . . . the landlady __ said nothing about Elayne. Only on the day in October 1977

when I moved in did she remark, "The woman who lived here before you —we were so fond of her—died of cancer. . . . Two weeks ago. I was the one who found her."

"Here?" I asked, startled.

"Yes, Elayne died here. . . ."

On my first night in the apartment, after I went to bed, the hallway door and the bathroom door suddenly closed, both banging loudly. Next the door between the hall and the living room closed with an equally loud bang. It must be the wind, I thought, as I rose to close the windows—only to find they were shut. . . .

Then I heard the refrigerator door open and close. . . . Had an intruder crept in? . . . the kitchen was empty . . . The front door was locked, with its chain in place. . . .

The next night brought a repeat performance—more door banging, more refrigerator openings and closings. In the morning my landlady came to my door and asked me to be more quiet. The door banging had disturbed my next-door neighbor . . .

That night I closed all the doors in the apartment—to prevent their banging shut—but even so, in the middle of the night the loud crack of a slamming door awakened me.

[A week after experiences began, Ms. Wall returned home with a friend after dinner out.]

No sooner had we entered the apartment that the banging began. Windows and doors closed violently all over the place. Even the refrigerator got into the act. I told Rosali about the phenomenon and about Elayne. Could her ghost possibly be causing this disturbance? Perhaps she did not realize she was dead and resented my presence in what she still regarded as her place.

Wall and the friend who had been witness to the activity in the apartment decided to try a cleansing ceremony on their own. This

involved a home-grown ritual which was overheard by one of the neighbours and served to increase Ms. Wall's already unpopular stance, without any effect whatsoever as far as Elayne was concerned:

One night she kept opening and closing the refrigerator door for an entire hour without stopping. . .

On the first of January 1978 I received my 30-day eviction notice. There was no use protesting. Although several of my friends had witnessed Elayne's act, none of us wanted to get laughed out of court by claiming that a ghost was responsible.

I moved. (50-2)

Whereas the spirit that tormented Caroline was frightening and destructive, Elayne's ghost was merely annoying, though ultimately more successful. It is also interesting that ghosts who attempt to prevent rectification of space do not operate under any evident rules. Calvin's ghosts may (or may not) have been trying to play when they frightened him, and though they have not done so since, they still function as a check on his behaviour. Essentially, they reminded him that whatever he may think, the house is not his alone and has been "theirs" longer than he has

been alive. Caroline was bothered by an angry and apparently evil spirit that for one reason or another seemed to take an active dislike to her personally and, having claimed certain spaces as its own, took every opportunity to disrupt her life. Despite all this, she was ultimately successful in suppressing it, if not driving it off completely. The ghost of Elayne, however, might not have been successful in scaring Ms. Wall off, but did manage to annoy the neighbours sufficiently that the dead's claim on the space superseded that of the living.

Coming to Terms With the Dead

Whether the space can truly be taken back by the living from the dead is not, however, the main point at issue. It is that "cleansing" rituals are so frequently felt necessary by those who are living in a place where someone has died. A new tenant must often cope with the belief that, regardless of what they may experience in the home, something has been left behind by its former tenant, and as such must be removed or placed in the background. Some of the steps they take are similar to those

which used to occur when a wake was the norm after death.

In "Tricks and Fun: Subversive Pleasures at Newfoundland Wakes," Peter Narvaez notes that: "In clear opposition to the hegemony of official religion, the dead have been kept alive at Newfoundland wakes through smoking, drinking alcoholic beverages, eating, talking. . . . activities that have merged sacred spaces with profane collective pleasures . . ." (265). One of the reasons behind such activities has been theorized as "placating the dead," that is, an attempt to: *normalize relations with the dead before interment in order to prevent the dead from harassing the living in the future*" (Narvaez 266, emphasis author's). Which is similar to the steps taken above, to renew the livability of a space. Narvaez clarifies this by stating:

. . . it should be explained that those in attendance at a wake might have placated the dead not so much through behaviors in "honor" of the dead (o' Suilleabhain, 1967a, 52) as by simply behaving in an ordinary manner, as though the deceased were alive and a member of "the crowd" participating at a party . . . The overall strategy in developing and maintaining this impression was to engage in participatory activities that either directly or indirectly animated the inanimate corpse. (267)

Narvaez notes that one of the theorized reasons for placating the dead is that their harassment of the living might be due to envy of those who have succeeded to their property, (226) a most reasonable fear in the face of the experiences of my informants and others. While it is likely that these activities were undertaken at wakes on the personal level of being performed by those who had inherited property, rather than for the sake of someone who might purchase the deceased's home in the future, the principle remains the same.

Conclusion

For me, the most interesting aspect of this particular area is that despite my informants who spoke of "energy" or "something" left behind by the dead, and one or two who mentioned house-blessings to alleviate any bad feelings, none of those expressing reluctance to live in a house where someone had died spoke of the possibility of the deceased resenting their presence and trying to drive them out. The overt absence of this particular fear is

noticeable particularly as such behaviour on the part of spirits is a known phenomenon in personal experience narrative, ghost story collections and fiction. Whether this reticence is because they share Ms. Wall's misgivings about being "laughed out of court" over having to admit that a dead person may be attempting to drive them out, or whether it is implicit in the statements regarding energies the dead might leave behind is uncertain. Nor have any of them said "I don't want to share my space." Just the opposite; as long as the ghost is not hostile or laughing at them during private moments, space does not seem to be a problem. However, they are the interlopers and might feel different if a spectre suddenly decided to move in with them.

Also of note is that, regardless of how they might have answered questions regarding their willingness to live in houses such as are the subject of this thesis before their related experiences, neither Calvin nor Caroline seemed to give thought of surrendering the space to its other occupant(s). Despite the extreme negativity of Caroline's experiences, she did not mention wanting to abandon the house and even having his basement

flood the day he moved in did not drive Calvin away.⁵⁹ In fact, most of my informants who encountered some sort of spiritual manifestation in their homes seemed to have little or no qualms about remaining.

I have deliberately avoided discussion of such extreme reclamations of space as exorcisms. This is in part because no one I spoke to had ever experienced one, and therefore they seem to be out of the scope of this thesis. Suffice it to say that in spite of all the good and bad encounters, emotional and otherwise, recounted in this chapter and the one previous, there are steps which can and are taken to give the living, if not the dead, peace

⁵⁹It should be noted that Caroline had a similar experience in a previous home, though this one was far more easily dealt with:

It was probably between three or four a.m that I awakened with a start to a white, misty, cloud-like thing hovering above me...

Almost immediately thereafter, my four-year-old son, whose bedroom was directly across the hall, began to cry out in the night - always saying that there was a man standing in his room (always at the same place near the foot of his bed). This continued... until I finally became angry enough to confront it/him. I could see nothing in the room at the time, but there were no more "nightmares." I do not believe, however, that these were a child's bad dreams.

And that, not only has Calvin's entire family had a history of seeing ghosts and the like, but that he himself, after an accident was briefly clinically dead. Both interviewees are, therefore, open to the existence of the supernatural.

of mind in their cohabitation.

Chapter 6

Law or No Law: Stigma and Rumour as They Effect Home Sales

It was a dark and stormy night. Before heading home, you had one more appointment: a listing presentation at a home on Transylvania Avenue. The sellers, Franken and Elvira Stein, had contacted you because they'd heard what an excellent reputation you had for marketing homes. But as you pulled up to their property, you realized it wasn't an ordinary house. The shutters flapped and creaked in the wind. . . . "It looks as if the Steins could use some tips on curb appeal" . . .

But once inside, you found that the home was a gem. "Once the exterior is fixed up . . . marketing this home will be a piece of cake."

Back at the office the next day, a fellow agent stopped at your desk. "I heard you listed the Steins house on Transylvania! . . . A couple was murdered there a few years ago, but I guess that was before you lived around here. . . . The police never did find out who did it." (Tomecek 28)

This thesis thus far has largely dealt with the fear of ghosts, either associated with negative energy or overactive imaginations, and the impact such beliefs have on home sales. There is, however, at least one other and equally important fear the buyer must face; that is, the same fear exhibiting itself in the minds of future persons viewing the house. These anxieties can be particularly virulent when compounded by rumours which reinforce or accentuate these fears.

In order to deal with the potential impact of notoriety on a home's marketability, it first becomes necessary to define the structure of the concept I am dealing with. For this purpose I have looked to legend study for interpretation of the significant aspects of this phenomenon. While legends are not precisely what I am dealing with here, I believe there to be sufficient overlap in

the topics to make the comparison pertinent.

Rumour itself is defined by Tamotsu Shibutani in *Improvised News* as: "A communicative pattern that develops . . . in a situation in which something out of the ordinary has happened" (9). It is always hoped that a violent death is an unusual circumstance, and as such it often leads to the fear, lawsuits and even legislation such as I have discussed previously. Most of those difficulties are, in one fashion or another, related to notoriety around the event. As Shibutani goes on to state: "Any unusual event . . . often leads to the formation of rumours." Which, in the context of this thesis, can then impact on whether or not a property will sell, and for what price.

As was demonstrated in the chapter on the legal aspects of properties in which deaths have taken place, stigma exists regardless of what the law has to say about it. Stigma also expresses itself in the form of rumours about the property in question, often completely disregarding the reality of whatever events may have taken place, or what the law says about disclosing them. The reluctance to live in the home under such

circumstances is often expressed in terms of lowered selling prices, buyers who are willing to lose deposits to walk away from a house, lawsuits, and any other means at the public's disposal.

While the "house on Transylvania avenue" was a theoretical construct used by a real estate writer to demonstrate the question of whether or not to disclose, it is particularly relevant to the phenomenon of the history of a home effecting its saleability. In the above case, the situation could very well be exacerbated by community awareness of the crime: not to mention the impact of the crime itself being unsolved as it relates to the fears of potential buyers.⁶⁰

Additionally most of us are at least peripherally aware of and, at some level, I agree with Charles Harper's contention that:

To tell of all the reputedly haunted houses, would be the work of a lifetime, and would grow wearisome to the reader; for, in general, a house has but to look dark and forbidding, or to lack for a while a tenant and the attentions of the builder and decorator, for a ghostly tenant to be speedily found for it in popular imagination. In other instances, romantic old houses with impressive picture-galleries will fire the imaginations of the servants

⁶⁰This is important as I have had more than one informant express some nervousness that the killer might return to the scene of the crime.

and others, with amazing results. (40)

When Harper's statement is added to the folk knowledge that a house where someone has died, particularly a violent death, is potentially home to ghosts, there is little doubt as to the impact notoriety can have on places that meet such criteria. Camille Flammarion in his book, *Haunted Houses* demonstrated that the present and recent past of a building can be as important, if not more so, than its actual history:

The house had a deserted look. For a long time it had a bad reputation. When it was uninhabited and shut up, lights were seen shining in the windows and disturbing noises were heard through the walls. Tradition established a connection between these tales and certain crimes, real or imaginary, which must have been committed there. . . . (304—5)

This negative impression of certain places is kept alive among the general public through movie plots, campfire stories, our own imaginations, and through casual conversations of people who notice houses up for sale repeatedly or vacant. As a rule, these stories function as harmless entertainment or the purveyors

of occasional nightmares. At worst—at least from the perspective of this thesis—they can serve to severely impact the sale of a home that matches any of these criteria, regardless of its actual history. In other words, such a home is strongly indicated to be a difficult sell.

It has been theorized that one of the reasons why homes which are classified as "unusual" are less appealing to the average buyer is the very fact of their difference. That is, that houses such as the ones I have been discussing fall outside the status quo of what a home should be and therefore are surrounded by an aura of discomfort. In "Prescribing the Model Home" Gwendolyn Wright notes:

Generations of Americans have tended to see their homes as statements about their status and domestic life, a setting that revealed the kind of family who lived there. The home has continued to function as a mirror, reflecting a family portrait for the nation and for individuals. The household's major financial investment functions as assurance of good credit, peaceful domesticity, and class stability . . . (215)

Wright later goes on to state that: "Americans have often found it

difficult to accept variations of their basic paradigms," (217) and adding: "Homes that challenged these ideals were perceived as a danger to a residential 'neighborhood' and hence to the value of the property" (218).

While Wright is primarily concerned with moves such as those from single family homes to apartments, and the challenges occasioned by the changing roles of women in and out of the home, there is little difficulty to transpose her statements onto the reluctance of many to purchase a home which has been labelled as a site of violence or as haunted. If the potential buyers are sufficiently concerned, even unconsciously, about anything from property values to physical and emotional safety, rumours or legends about such a property could be as much, if not more damaging than reality.

In cases such as these, the most dangerous enemy a seller can have is notoriety. Consider once again the Reed v. King case (to recap):

In Reid(sic) v. King, an elderly woman, Dorris Reid, purchased a house from Robert King. Neither Robert nor

his agents . . . advised Dorris that a woman and her four children had been murdered in the house 10 years prior to her purchase of the property. Dorris learned of the murder from a neighbor after the sale had been completed. She sued Robert and his real estate agents for rescission of the sale and monetary damages. (McClelland 12)

The (albeit late) intervention of Reed's neighbours in regards to the value of her home brings up another important point to remember when discussing legend and rumour. This is that these stories are spread by people. Regardless of what events may have transpired to create the rumour, such as the deaths in Reed's home, the stories do not spread themselves. Without neighbours or the media, such narratives would quickly vanish and lose almost the whole of their ability to impact on valuation or purchasing decisions. In particular it should be noted that some people are more likely to be "legend bearers" than others. This characteristic is noted by Linda Degh and Andrew Vazsonyi (1975) in their work "The Hypothesis of Multi-Conduit Transmission in Folklore" where they discuss oral transmission and the predilection of some persons over others to become

bearers:

"In an earlier article on certain features of the folk legend, we attempted to substantiate the hypothesis that legends are communicated through a specific conduit distinct from other kinds of folklore expressions. We have termed the line of transmission of legends which was created by affinities between certain people *legend conduit*⁶¹: "By this we understand that contact becomes established between individuals who qualify as legend receivers or transmitters." This definition assumes that there are persons who qualify neither as receivers nor transmitters. These individuals may be the "passive bearers" of legends, to use von Sydow's term⁶², or else they may simply not choose to communicate legends. However, the same persons might prefer to narrate one or several other genres and might participate as "active bearers" in one or more communicative sequences. The forms of oral transmission are as extremely diverse as people, and the eventualities of affinity between men and folklore are just as multifarious. (211)

For the purpose of this chapter I will ignore the passive bearers, as they do not generally function to impede home sales by sharing their knowledge of past events. The active bearers were the ones who provided Ms. Reed with the information which instigated her legal action. Had they been passive bearers, the history of the

⁶¹Linda Degh and Andrew Vazsonyi, "Legend and Belief", *Genre* 4:3 (1971), 283.

⁶²On the Spread of Tradition", 13-15.

home might not have come to light and she could have lived comfortably unaware for her entire tenancy. Thus, the fact that some persons are more consistent, and perhaps, more believable carriers of legend than others has significantly impacted the industry.

On the one hand, had the neighbours not explained to Ms. Reed about the event and its presumed attendant depreciation there might never have been a lawsuit, or for that matter, a sale of any kind. On the other hand, there may well have been a sale and an even greater suit were Ms. Reed to have learned of the house's stigma through the news media or been confronted with it during an attempt at resale of her own.⁶³

Based on Wright's theories, my interpretation is that the reason such events have negative impact on sales has to do with the belief that properties with a negative history are a threat to the order and comfort which is supposed to be represented by one's home. As was stated in the introduction, a home is

⁶³Without going into an argument that would take me beyond the scope of this thesis, I will venture to state that in the face of the damage notoriety can cause to a sale, disclosure can be to the seller's advantage too, by using a small inconvenience to save them from a greater one substantially farther down the line.

purchased for security and stability, in addition to being an investment, but things such as rumours of murder or hauntings tend to make one feel less, rather than more, secure. If one becomes privy to such circumstances surrounding a home, it is likely to give one second thoughts. For example, Yi-Fu Tuan, in *Landscapes of Fear*, gives a description of at least one thing a house is meant to do: "Every dwelling is a fortress built to defend its human occupants against the elements; it is a constant reminder of human vulnerability." (6) and in *Space and Place* Tuan discusses the impact another's presence can have on one's feelings of control over a space that they deem to be their "own:"

As an extreme example of how other can affect the scale of our world, imagine a shy man practising the piano in the corner of a large room. Someone enters to watch. Immediately the pianist feels spatial constraint. Even one more person can seem one too many. From being the sole subject in command over space, the pianist, under the gaze of another, becomes one object among many in the room. He senses a loss of power to order things and space from his unique perspective. (59)

In the context of this thesis, the "other" in the room would

not be a living person but a ghost or even simply the potential for one. For many buyers, the possibility that they would never be alone in their homes, never be quite certain that they were the only ones in control of their space, would be sufficient motivation to induce them to look elsewhere for a place to live.

Georgina Boyes, in her study of rumour legends, has stated that part of the reason they can be so powerful is that: ". . . the rumour legend articulates the subculture's shared beliefs about the threats to its values, attitudes and symbols contained in aspects of external culture"(66). In essence, legends and rumours around the history of a house have the impact they do by being based in the beliefs of society at large. Were they not so based, their influence would be far less significant.

Rumours and reputation are problematic to current owners as well as to the buyer. As has been noted previously, if the home has any kind of blemish on its history the seller is already torn between revealing too little or too much. Thrown into this difficult equation is the worry about what those viewing the home may hear or read during the course of negotiations. Such

information can—and very likely will—combine with the fears and beliefs which are part of the buyer's world-view, to impact the sale in some manner. The result may be a lesser or greater reduction in price or, depending on when the information is disseminated, loss of a sale nearly ready to close. It should be remembered that one of my agent informants experienced such a difficulty with a house wherein a suicide had occurred. In this case it was the fears of someone other than the buyer who heard of the event and campaigned against purchase:

Sarah: It's not something that's talked about very much. But it's funny how people are affected by other people's opinions. The house I sold in Mt. Pearl, where the man hanged himself in the basement, wasn't a problem, I had the sale done. Her father heard about it and he said "No you can't buy the house." And I lost the sale. (Agent Interview #6)

Another problem faced by would-be purchasers, and that which led to Ms. Reed's lawsuit, is worry about what future buyers may think. That is, the person currently viewing the house might not be bothered in the least by a dubious history, but

may realize the potential damage an event such as a gruesome suicide or multiple murder might do if, in the future, they are attempting to sell to someone less complacent than themselves. That such fears are legitimate is demonstrated by experiences agents have had in showing houses with such histories, or even more pertinent, in the same neighbourhood. If the event was newsworthy, it may be remembered for a considerable amount of time and a client may make the connection between, for instance the street name and a murder, even more than a decade after the events.

Sally, for instance, in reference to the house on ____ Road where the young man shot his parents during the Christmas holidays sometime ago, found it going on and off the market repeatedly, ⁶⁴ but more importantly, her own efforts to show the house were often thwarted by her clients' awareness of the home's history:

⁶⁴There is no direct proof that this had any relation to the events which took place inside it. Neither she, nor any of the other agents I spoke to had heard any rumours of haunting there. However, its notoriety was sufficient to make agents conscious of its returning to the market.

Julia: [In reference to the house where the young man had killed his parents.] What kind of reactions did clients have to it?

Sally: Some people just wouldn't have nothing to do with it. Whatsoever. Soon as they found out, that this is the house. The particular house. . . . They weren't feeling comfortable with the fact that there had been something violent in the house. (Agent Interview #17)

Another agent told me that virtually every time he shows properties in the neighbourhood of that same house, he is met with questions as to whether the house currently being viewed is the house in which the murders took place.⁶⁵ As it turned out, he had never shown that particular house, but its notoriety was sufficient to potentially impact his sales.

It is further possible that a house with a nefarious history can become even more so due to rumour, innuendo, or inconvenient news reports. Depending on any number of factors it is not difficult to extrapolate someone tripping over a loose piece of carpet and breaking their neck falling down the stairs to something much worse. As the police are invariably called to any

⁶⁵This information was offered to me impromptu while I was being shown apartments and therefore was not collected in an interview format, however, I was given permission to use it in this work.

unexpected death, it becomes clear that there are few things better for starting up rumours than police cars outside one's door.

An added ramification in regards to the power of notoriety in regards to tragic events which may have occurred in one's intended living space is that of people with a vested interest in lowering the property value of a home or neighbourhood⁶⁶. Just as the classic TV-villain may make physical living conditions unbearable for tenants of a rent-controlled building in order to tear it down and build a mall, the potential exists for making property psychologically uninhabitable by spreading rumours about who or what may be living in a supposedly empty dwelling.

Jeffery Victor raised just such a question in "The Sociology of Contemporary Legends," where he notes that in regards to issues of social conflict, the most important question is: "What social groups' vested interests, in terms of wealth, power and prestige, are being promoted by the spread of the legend?" (73)

⁶⁶While not necessarily specific acts of ostension—"the physical enactment of actions" described in legend (Ellis 202)—using awareness of a rumour or legend to devalue a property has earmarks of ostensive activity and certainly derives from the same type of behaviours: "not only can facts be turned into narratives, but narratives can be turned into facts . . ." (Degh and Vazzonyi 1983).

He went on to say:

Legends can be used, much like propaganda, to enhance political influence and power in social conflicts. They can be used to obtain income from believing audiences, as well as being used to enhance the social esteem or prestige attributed to specific groups in a society. A key insight here is that particular rumours travel more actively through some communication networks, rather than others, and those are the groups most likely to benefit from them. (73)

It is highly unlikely that those neighbours aware of a home as a murder would deliberately spread rumours which served to devalue a home—as this would contribute to lowering the property value of the entire area. What is probable, and tacitly expressed in discussions of stigma, is a rumour taking on a life of its own and making a property virtually unsaleable at its book price.

Thus, it becomes possible that with the proper type of rumour a single accidental/natural death could become:

- 1) a murder by another occupant of the house, possibly even the seller
- 2) a tragic, possibly bloody, suicide

3) a murder to cover up other murders within the same house

4) more graphic than it was in its original form, that is a heart attack could mutate into an equally accidental/natural but far more distressing fall over a bannister leading to a broken neck and/or bloodstain on the floor below. All of which could, in keeping with some of the themes of this work, lead to future residents being haunted financially by those who lived, and died, there in the past.

While I am taking liberties with the imaginations/motives of neighbours and newspeople, the ways in which notoriety can transform a property is demonstrated quite clearly in the case of the home of Jose and Kitty Menendez. They were killed by their two sons, ostensibly as a result of years of abuse, but assumed by many to be motivated by greed.

I am not interested, in this context, with the true motivation behind the crime. What does concern me, however, is the house that Jose and Kitty had built shortly before their death. They never lived in it, nor were they killed in it, yet it became so

connected in the public eye with the crime that it turned out very difficult to sell. A house, which had been valued at \$2.6 million, eventually sold for \$1.325, and that was after sitting on the market for four years. This following quotation, which appeared directly beneath an article on Nicole Brown Simpson's home in a real estate newspaper, clearly makes the connection between the murder and the poor market showing of the Menendez house:

Calabasas, Calif. —Nestled behind electric gates, the mansion features a master bedroom suite encompassing the entire third floor, six other bedroom suites, seven bathrooms, five fireplaces . . . and mountain views from every room—Press release from Bernie Uechtritz, RE/MAX West, Woodland Hills, Calif.

Fantastic property, rock-bottom price. Just one problem. Everybody with a TV knew the grisly fate of its owners, Jose and Kitty Menendez. Prospective buyers weren't content with rock-bottom at \$1.6 million; they were waiting for sub-terranean. . . .

The family never lived in the house. It was still being customized at the time of the Menendez parents' deaths in August 1989. But even without blood or bullet holes, it was a damaged property. While stories of a hung jury and the sons' possible profiteering motives became the subject of worldwide news, the mansion's stigma festered. (1, emphasis author's)

It is only fair to note that, at the time the home was on the

market, the California Real Estate market was in a general slump but this was hardly the primary factor at work. It is highly probable that, regardless of which version of the murder a prospective buyer believed, there would be a significant impact on their perception of this lavish home. One was thinking of purchasing the home of two of the worst parents in the world, a home in which the children would have invariably continued to receive brutal treatment, or viewing part of the inheritance of two cold-blooded murderers.⁶⁷ Either way, most buyers were likely to find some sense of discomfort in such a place; at least if purchased at full value.

Another rumour aspect which can be harmful to a sale was demonstrated in the "House on Transylvania Avenue" and reinforces Wright's commentary on the home as an assumed space of personal security. The last line of the theorized disclosure dilemma was "The police never did find out who did it," which leads the potential buyer to question whether it is truly safe

⁶⁷According to the same article, money from the sale of the house would *not* go to the defence of the two boys, but this was not generally known. There was no indication of where the proceeds *would* go.

physically, for them to purchase. This fear was reflected by my informants in Chapter 3 on the subject of living where another had died. Mary noted: ". . . if murderer of the person who was murdered was still at large. He/she might come back." This reaction was reinforced by Steve, whose reaction to violence was this:

If I could detect that the murder was a result of poor home security, poor neighborhood, etc., I would not live there for that reason. In fact, if the murder were anything but domestic, I would not live there. To me, it's an issue of safety. (Personal Interview #3)

Thus, even for those who had no psychological issues with a death in the house, the property could still become stigmatized if it was the site of a murder notable for never having been solved.

Rumoured Hauntings

Lowered value can work in reverse as well. Living as we do in a capitalist society, when one finds a lower than expected price, the first reaction is to ask: "What's wrong with it?" A question

which, if the house has a history or somewhat unique appearance, can easily lead to speculations about things that go bump in the night.

Though the majority of my informants never encountered the above problem—except possibly John, the friend of an informant who learned the price was reduced due to a death and turned that to his advantage. However, it is the work of a few moments in any collection of haunted house stories to find one about a house that sold or rented cheap—"almost too cheap"—and ultimately turned out to be the home of a spectre which, as often as not, attempted mischief on the unsuspecting tenant. The most famous of these is the house in Amityville, New York. According to *The Encyclopedia of Ghosts and Spirits*:

George and Kathleen Lutz, with Kathleen's three children . . . moved into a large Dutch colonial house at 112 Ocean Avenue in Amityville on December 18, 1975. The house seemed a dream come true for the Lutzes: six bedrooms, a swimming pool . . . a boathouse on the water, plenty of yard for the kids and their dog, , and all in relatively good condition. Best of all, such a place was—amazingly—available for only \$80,000.

The broker explained that the house had been on the market for a year at such a bargain price because it was

the DeFeo house, scene of a mass murder by 23-year-old Ronnie DeFeo, of his father, mother and four younger siblings on November 13, 1974. . . .

By January 14, 1976 when the Lutzes fled the house never to return, they had been terrorized, they later said, for 28 days. Ghostly apparitions of hooded figures, clouds of flies in the sewing room . . . window panes that broke simultaneously, bone-chilling cold alternating with suffocating heat . . . turned their dream home into a hell on earth. . . .

"Father Mancuso" . . . the local priest who blessed the house after the Lutzes moved in, suffered debilitating sickness . . . He claims he heard a voice ordering him to get out when he sprinkled the house with holy water. (Guiley 7—8)

Of course, the "Amityville Horror" has since, despite some claims from the Lutzes to the contrary, been exposed as a hoax. This does not make the story any less valid in this particular case. The house was sold at a spectacularly low price due to the murders. The notoriety of the house impacted so greatly on the succeeding owners, in the form of droves of the curious, that they sued the Lutzes, Jay Anson (the author of *The Amityville Horror*) and Prentice-Hall, the company which published the book for \$1.1 million, (Guiley, 8). This case concretely establishes the premise that the problems of rumour and legend are rarely confined to

one owner. Finally, while I did not find any current information on the sales history of the Amityville house, with all the publicity, it is easy to surmise that all ensuing transactions would be impacted to a greater or lesser degree by the Amityville Legend.⁶⁸

The Amityville story is by far the most well-known of contemporary cases of this type, but such problematical lodgings have an established history. In *The Nightside of Nature: Ghosts and Ghost Seers Vols. I & II* (1848), Catherine Crowe seems to have detailed every piece of information she had ever heard regarding ghosts, hauntings and the like. Among these is her version of the price which is too good to be true:

I have moreover frequently heard of people, whilst travelling on the continent, getting into houses at a rent so low as to surprise them, and I have moreover frequently heard of very strange things occurring whilst they were there. I remember, for instance, a family of the name of S. S., who obtained a very handsome house at a most agreeably cheap rate . . . They lived very comfortably in it, till one day, whilst Mrs. S. S. was sitting in the drawing-room . . . she saw a lady dressed in white pass along before the windows, which were all closed. Concluding it was one of her daughters, who had been accidentally shut out, she arose and opened the

⁶⁸The book can be found in any library, and the movie, sequels and all, is available for rental, not to mention frequently showing up on cable TV.

window to allow her to enter, but on looking out, to her amazement, there was nobody there, although there was no possible escape from the balcony except by jumping into the sea. On mentioning this circumstance to somebody in the neighbourhood, they were told "that that was the reason they had the house so cheap; nobody liked to live in it." (Vol. I, 65—66)

This narrative not only demonstrates the longevity of such rumours, but how easily they can be translated and transmitted as warnings to others, leading to the possible consequence of increased suspicion on the part of prospective buyers.

However, the house need not necessarily be eerie or long-vacant for sellers to find that public awareness of haunted premises can work against them. It is sometimes enough for the rumour to exist, regardless of the actual condition of the property, for its value to be damaged:

In May, 1948, however, there was a case in which the rating assessment on a house in Weathercock Lane, Apsley Guise was reduced from £62 gross value to £52 after the owner had called witnesses to prove his point that the value of the house depreciated because of ghosts. . . . (Bardens, 161)

Whether this ghost(s) was terrorizing the tenants or not, there was obviously sufficient public awareness of their presence to not only cause people to think twice about residing in the house, it was a well-enough known phenomenon for the owner to be able to produce witnesses. From the tone, these were not witnesses to the apparitions themselves, but to their effect on the value of the property.

It is possible that rumour can effect the beliefs of the buyer about their prospective home in such ways that might not have previously occurred to them: to fear ghosts or see bloodstains, a highly publicized event, could easily alter that perception. In fact, in previous chapters I have shared statements by informants that many of their fears were based on the fact that, knowing there had been a violent event in the house, their imaginations might fill in too many details. One of the real estate agents I spoke to expressed his take on the way imagination can combine with legends and such to increase one's discomfort in specific circumstances:

Evan: I just feel that people themselves just don't feel comfortable and no matter who we are, even though we say we're not afraid of the dark, if you watch a scary movie, even in your own house, and I've lived in mine for thirty years, there's more a tendency to turn on the light as you move through your own house. And I go in the woods sometimes overnight. And I don't do this so much now but when I did I would not watch a vampire movie or something like that the night before going into the country, but other than that, then I would roam around in the dark or in an old house. But I think people, I think its an inherent fear, with everybody that they think there are ghosts or its haunted or a violent death in a house will effect the house somehow. (Agent Interview #1)

Rumours, legends, and notoriety are particularly important to the subjects of this thesis. As has been demonstrated in other corridors of folklore and historical studies—from the Blood Libel⁶⁹ legends which caused so many Jews suffering, to the occasional modern uprising of "Satanic Panics" (Ellis 1991) in the present day—where rumour and the possibility of the supernatural meet, the results can retain their hold on the public mind for significant

⁶⁹A prevalent medieval rumour wherein it was "known" that the Jews stole the Host and performed rituals on it which not only caused the Host to bleed but which were dedicated to evil purposes. (Holmes 119)

periods of time.⁷⁰ If one believes for instance, that a suicide will lead to a haunting, one may hold a strong belief that the house next door is haunted regardless of any "empirical evidence" and as a consequence, communicate that conviction to others.⁷¹ Whether a third party's belief in itself could stigmatize the property in the eyes of a buyer is impossible to accurately determine, but it is not inconceivable that over time such a belief on the part of a single individual could influence others. It was certainly demonstrated in the chapter on property law that awareness of a home's history could be the deciding factor as to whether the home sold or not.

Conclusion

Rumour functions as a vehicle of belief inasmuch as it "allow[s] human beings to cope with the uncertainties of life," (Rosnow et al 12) by providing explanations or even histories where they may not actually exist. In the case of home sales, the

⁷⁰For instance, while it is hoped that an increasingly small number of people believe in Satanic cults sacrificing thousands of persons a year without being caught, it is not unheard of, even today, for Jews to be asked if they have horns or practice desecration of the Host.

⁷¹I am taking no sides on the validity of any such beliefs, simply asserting a possible cause and effect.

relevance of rumour can fluctuate over time, as the house goes on and off the market, cropping up when least desirable. As has been noted, some buyers will disregard legends about a property they like, and others are comfortable that a blessing or its equivalent will sufficiently mitigate any psychological damage a violent event. Unfortunately however, for many sellers, the only cure for the notoriety which has stigmatized their property, is time.

Thus, whether it is through the action of our own imaginations, rumours about the specific house, or legends regarding that type of property, notoriety of any sort can and will impact on a sale. Of course, as was demonstrated in the chapter on hauntings, notoriety is not universally negative. Hotels, inns—anywhere the potential percipient is only residing temporarily—can actually financially benefit from even rumours of ghosts or violent deaths.⁷² There is something about a ghost in a place where one is only residing temporarily that adds to the lure rather than detracting from it.

⁷²Provided those deaths are romantic or historical and not simply unpleasant.

It should also be remembered that regardless of the history of any individual property, it is the people who are of its history who function to keep the notoriety alive. In addition, there can be an appreciable difference in the length of time rumours are kept alive, in addition to how strongly they will impact on the value of specific properties.

Chapter 7

Conclusion

This account of a haunting (called hereafter the *Haunting*) concerns folk beliefs that have little part in most official, institutional religions: returned spirits of the dead, ghosts. Returned spirits, however, constitute the most basic spirit category in folk traditions about the supernatural. Whether a tradition contains demons, shapeshifters, vampires, fetches of angels, almost all include spirits of the dead. (Hufford, *Fields of Folklore* 64)

Whether due to fears of the returning dead, negative energy, or one's home having a poor resale value, the primary motivating factor behind expressed unwillingness to purchase a home where death has taken place is belief. These are not

necessarily beliefs of a highly articulated kind, such as: "I believe X because I was taught that if Y happened then X would occur," but often simply an awareness that certain aspects of any given situation make the informant uncomfortable, regardless of their ability to express their reasons behind such unease. This is not to claim that such beliefs are "unconscious" for, as David Hufford states:

it makes no sense to speak of "unconscious beliefs," etc. The simplest check on the validity of a belief description is to offer it to the one thought to hold it, and ask if it is acceptable. If it is not acceptable it must refer to a belief the inquirer held about the believer. . . . (*Fields of Folklore* 58)

While my informants were often unable, when pressed, to define the reasoning behind their reactions to my questions, they were not unconscious of them. Rather, their responses seemed to be more along the lines of Hufford's contention that:

Most people . . . do not consciously hold their "beliefs" in a highly articulated form, certainly not as a list of propositions. Even if one knows, accepts and has reflected on an official religious creed . . . that creed is

unlikely to contain all that one believes to be true about the supernatural. This is not, however, to say that most people do not know what they believe. Rather, people's beliefs are embodied in their "stories" and their actions from which they must be inferred by the interested observer. Stories and their discussion, then, are the natural currency of belief traditions. (Hufford, *Fields of Folklore* 57-8, emphasis mine).

It is with this in mind that I approached the reactions of my informants on this subject matter. Although I went in hoping for substantial unity of belief regarding my area of study, I came away with an awareness that, while a majority of my informants may express certain beliefs, there is no overwhelming bias in any direction. While this is not the most satisfying conclusion for a researcher to come to, it is the most accurate I believe possible. Since I am surveying a wide cultural cross-section, such as is necessary for my specific subject, the lack of uniformity of expressed or unexpressed beliefs on the subject of what matters to my informants in respect to where they may live, cannot be too surprising.

That aside, while there was a great diversity of opinions and the reasoning behind them, I still feel that there is sufficient

agreement on the salient points regarding which living environment is preferred and which is excluded—particularly in the context of extreme cases such as murder or suicide. There is additional agreement in the extant legal cases and real estate agent experience for me to conclude a high probability for partiality toward houses wherein violent deaths have not taken place.

Further, it is my contention that such partiality is grounded in the context of such long-standing traditions such as that presented by Gillian Bennett in *Traditions of Belief* where she mentions the now formalized "connection between ghosts and unnatural deaths or wicked lives" (Bennett, 87, 198).⁷³ This association is further backed up by her conclusion in the same study that, in differentiating friendly "spirits" from ghosts:

'ghosts' are features of haunted houses, essentially phenomena limited to special classes of place, such as houses where suicides or murders have been committed or where former residents suffered intense unhappiness.

⁷³Though Bennett uses this in the context of how literary traditions about ghosts have altered the way in which the general public views them, I feel that it is not less relevant, as this "literary-fying" of haunting traditions has been in place sufficiently long enough to become part of cultural understanding.

The crimes and sorrow leave their mark on the building in the form of 'waves' of energy, which manifest themselves as mysterious noises, self-opening doors, flying objects, the switching on and off of lights without human agency, or spirits which interfere with living residents. These are in essence very similar to the characteristics of haunted houses in the popular stereotype today, and in much of the folklore of previous centuries as well. . . . (Bennett 87, 211)

Other researchers such as R. C. Finucane have confirmed the perception of ghosts as being a result of violence or unhappiness: "the impression [was] that the spirit of the dead hovered near the corpse, especially in cases of violent or premature death, including suicide" (8). This statement, while not specifically declaring that ghosts will haunt the house where they died, does provide evidence to support such a belief. All of these traditions, including the simple existence of ghosts, function to impact on an individual's awareness on a variety of occasions, including that of home purchase, regardless of whether or not they state specifically that they fear ghosts. Comments such as "too many viewings of *Poltergeist*" or "I'm already afraid of the dark, afraid of UFO abduction, and a host of other silly things that nonetheless

scare the bejeezus out of me when I'm left alone to think about them too long," (Simon, Personal Interview #8) clearly indicate understanding of the extant traditions in addition to their influence on our lives.

As I have previously stated, while there were those of my informants who expressed a specific or general trepidation about ghosts haunting the homes they might purchase, the majority of the comments that expressed fear were like those above. That is, they referred back to examples of events which provided descriptive material for their fears without fully articulating them. This is very similar to the experience David Hufford recounts in his collecting of the *Haunting*:

In the *Haunting* the words "belief" and "believe" were not used even once by family members. Instead, the speakers describe events in a way that implies their beliefs and tacitly makes a case for them. For instance, Jane, in her description of the anomalous footsteps, did not state *any interpretations* or use the word *ghost*. The closest she came to *ghost* was "Sam had one (other) experience with — with the — wh — Other than hearing what we heard." Yet the context of the discussion and the implication of the observations she reports make it clear that she is offering reasons to believe that the spirit of the murdered owner resides in her house. (*Fields of*

Folklore 65) (Emphasis author's)

As opposed to Hufford's retelling, when my informants had a supernatural experience they were generally inclined to name that encounter as being with a ghost, and it was in their expressions of fear that they were more reticent about using descriptive terms such as "ghost," "spirit," or "spectre." Yet it is clear from their words that there is at least an element of exactly this fear in their reluctance regarding properties where deaths have taken place.

Compare Harry's statement, presented more fully in Chapter 3, ("In my case it's not fear of external danger, i.e. being murdered by ghosts or being forced to commit copycat suicide") with that of Augustine:

I think most people wouldn't like it because most people have a very low tolerance for anything that is disturbing and doesn't have a happy ending. It causes them to think and worry about nasty things and they just don't wanna. So, the idea of a suicide in one's house is just too icky for most people. . . . (Personal Interview #18)

Augustine's statement clearly infers the beliefs articulated by Simon, but without ever applying the word "ghost" to the subject at hand.

I liken this means of elucidating reactions to Diane Goldstein's conclusions regarding traditional belief retention in Newfoundland. She states: "it is the personal experience of the supernatural that occasionally surfaces, while legendary and dite materials occur less often" (31). While my informants expressed fears relating back to popular culture images, as well as traditional hauntings, their primary means of exposition was to use their feelings on the issue as explanation without making too many specific statements about the influence of outside forces.

This does not mean to imply that every person who expressed reluctance to reside in a house where some manner of death had taken place did so out of fear of ghosts, merely that for many who did, anxiety appears to be a factor regardless of the fashion in which they chose to articulate it. Other explanations for reluctance to own or reside in properties where death has taken place can be found in current theories regarding cultural fears of

death and, in particular, the modern attempt to distance ourselves from it.

Newfoundland serves as a special case in one portion of this study in that it has retained the tradition of family members dying in the home, rather than in hospital, longer than the rest of North America. Until recently the home had been the primary place for people to die,⁷⁴ a circumstance which leaves a majority of those who have either grown up or lived in the province for an extended period of time with a somewhat different view of death in the home than many other areas. Most of the real estate agents with whom I spoke, as well as informants from the province, expressed the feeling that a natural death in the home was just that. There was nothing to be feared from or made uncomfortable by such a death.

Complacency in respect to natural deaths is never, of course, a foregone conclusion. Ben, my sole informant who refused to even consider any home where a death had taken place

⁷⁴ Virtually every house in Newfoundland more than a few decades old has potentially been the site of numerous deaths without anyone batting an eye regarding whether or not it affected their ability to reside there.

irrespective of circumstance, was a native Newfoundlander. By the same token, others who made statements along the lines of: "I see no reason to jump through hoops avoiding such habitation," (Ryan Personal Interview #25) were as likely to come from parts of North America where death in the home has been verboten for decades, as from Newfoundland where it has been common. In other words, while the majority of the St. John's real estate agents I interviewed were of the opinion that most Newfoundlanders would be less nervous about a natural death than a deliberate one as a by-product of this tradition, I found no great increase in discomfiture on the part of those raised elsewhere.

This aside, there is little denying that modern society seems bent on placing death as far in the background as possible⁷⁵. This has been described by various scholars as: "the new pornography" (Gorer 1955) among other things, and more specifically defined in the following fashion:

For the phenomenon of death has become something of

⁷⁵This is death on the personal level; shocking, sensational, or newsworthy deaths fall under a different category in my estimation and consequently are only relevant to this thesis when they prevent someone from buying a house.

an acute embarrassment to modern man: in a technological world that has effectively ruled out of order explanations of a mystical nature, man is brought up short in his inability to understand or give meaning to death. . . . Death is thus avoided as much as possible. . . . (Stannard viii)

This theory is substantiated in Peter Narvaez's article on the Newfoundland Wake tradition, where he states:

Death used to be an integral part of life that united home and community, but today we deny it. Dying persons are routinely sequestered from the living in specialized hospital wards. Professionally trained morticians prepare cadavers to be "life-like" for public display in funeral homes. Domestic funerary customs and rituals, community mechanisms of consolation and collective support for the bereaved, no longer appear to be with us. (263)

Likewise, this reaction is actively expressed in traditions such as those detailed by Kenneth Foote in *Shadowed Ground*, and his descriptions of certain reactions to violence as obliteration:

Whereas sanctification leads to the permanent marking of a site and its consecration to a cause, martyr , or hero, effacement demands that all evidence of an event be removed and that consecration never take place. Whereas sanctification is spurred by the wish to

remember an event, obliteration stems from a desire to forget. . . .

The shame attached to stigmatized sites circumvents this process [that of marking the end of a period of grieving etc.]; people are discouraged from caring for the site, even if the violence—say, of a mass murderer—claimed many innocent victims who deserve memorialization (25).

Again, while none of the above mentioned responses were specifically expressed by my informants, it is my feeling from their comments as well as the information presented in the real estate articles, that there is an unconscious response to the social trend away from the personalization of death. If nothing else, when the norm is moving more and more toward death taking place outside the home, there is a sense of rupture when one learns that one or more persons have met their ends in the property one is thinking of buying. When the death was deliberate, the disruption to what can be considered our standard world view becomes more extreme. Deliberateness of the death adds a number of factors to the equation, including fear that the killer or the victim may return to perturb the living when they take up residence.

Nor have I been able to fully address all the issue which may impact a purchase. Included in the aversion toward living where a violent event has taken place is the concern—overt or otherwise— with contagion from past events. This was expressed in statements from several of my sources regarding house-blessings and other ceremonies in order to render a house "clean". Whether these activities applied to violent deaths or cases such as that of real estate agent Donna Coffman who wrote about selling a house whose previous occupant suffered from Aids, there have been distinct indications of concern about intangibles left behind.⁷⁶ :

Even the man who eventually bought the property I listed, though well educated, wanted reassurance from his doctor that he and his family weren't at risk of contracting AIDS.

And, in spite of the reassurance, he didn't feel comfortable until he had replaced all the carpeting and toilets and repainted the walls. (24)

⁷⁶Kenneth Foote's work on spaces that society views as unclean and therefore in need of "sanctification," "recitification," or "obliteration" and Gillian Bennett's discussion of "Good" and "Bad" homes further indicate awareness of these worries on the part of the general public. Though their researches do not deal expressly with house purchase, they do exemplify cultural fears which directly relate to the livability of properties.

Though this thesis has dealt primarily with anxiety after one or more deaths, the above quote reminds us that there are numerous circumstances which would-be homeowners may find disquieting. Whether the situation is a potential karmic backlash from a prior resident, fear of disease, or a lowered resale value, it is clear that material damages are not the only things which are perceived as capable of directly affecting the happiness a buyer and/or their family hope to find in a new home.

Unfortunately, there is no solution for either the buyer or the seller when it comes to a rupture such as death, illness or notoriety. Only time can erase the memory of violent events, nothing can change the fact that they took place where they did; and, while a lowering in price may ameliorate some of the horror, the process of changing beliefs and emotional reactions ingrained by society is far too arduous to be undertaken in the midst of a real estate transaction.

What is vital in providing amelioration in respect to stigma is an awareness of the cultural beliefs expressed throughout this work. Consciousness of such issues, including understanding of

how these beliefs have already acted to impact the perception, interpretation and even creation of policies and legislation, may act to stop some problems before they begin. Examples such as the use of disclosure forms, communities taking matters into their own hands and demolishing homes which have been the sites of horrific crimes and the articles written by real estate agents about their won experiences with stigmatized property should all be taken into account in the future. Sensitivity to those things which have proved problematical in the past, up to and including situations which have lead to lawsuits are important, and may help to prevent other legal entanglements in the future.

Increased awareness is doubly important in that, despite the considerable evidence of reluctance to deal with properties that may not match a psychological ideal for comfort, there is currently little recourse⁷⁷ for those for whom any of the circumstances dealt with in the thesis might prove pertinent. At present, official culture's response of disclosure forms in conjunction with folk culture's personal decisions of what to disclose and when (or what

⁷⁷Though, admittedly more than ten years ago.

questions to ask about the property in question), are the only functional means of sufficiently respecting beliefs and avoiding one kind of buyer's-remorse or lawsuits, and even they cannot prevent difficult situations. Consider the following dialogue from the movie *LethalWeapon 3*:

From *Lethal Weapon 3* 1992 Warner Entertainment

Client: "Oh, I love that picture window."

Agent: "You do? It's been completely replaced. . . . A drug dealer came through here with his car and crashed right in. An' he shot up the whole place. . . . Listen, I have to say these things. It's the law. It's called full disclosure."

Client: "Anything else you wanna disclose before we go on?"

Agent: "Okayokay. Now that you mention it, the bathroom upstairs has been completely remodelled due to unexpected bomb-damage." (*Lethal Weapon 3* 1992)

While the above quote regards a fictional case, where a house, despite being physically recovered from the damage it had suffered, was still stigmatized by the nature— i.e. criminal activities— of that damage, it clearly demonstrates that psychological damage can be at least as significant as material damage if not more so. The quote also makes it clear that there is

an ever-growing awareness of the impact of stigmatized property on buyers. Whether or not there will be any further significant legal changes, there is a recognition that our hopes for what a home will mean to us will be at least unofficially recognized in the future. Law makers as well as real estate professionals are becoming more aware that the ability of a home to lock out the world and to find spaces which are ours alone can all be shaken if we encounter a situation in which our beliefs about death, ghosts, or fears for our own safety, are challenged by the history of an otherwise "perfect" home.

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Caroline, Personal Interview #23, 21 December 1996.

Father Jack, Personal Interview #24, 29 December 1996.

Roger, Personal Interview #25, 3 January 1997.

Ruth, Personal Interview #26, 3 January 1997.

Appendix I

Reed V. King

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193 Cal.Rptr. 130

(Cite as: 145 Cal.App.3d 261, 193 Cal.Rptr. 130)

Dorris Joni REED, Plaintiff and Appellant,

v.

Robert J. KING et al., Defendants and Respondents.

Civ. 21937.

Court of Appeal, Third District.

June 21, 1983.

Hearing Denied Oct. 6, 1983.

Purchaser brought action against vendor and real estate agent seeking rescission of contract for sale and damages. The Superior Court, Nevada County, Frank D. Francis and Harold F. Wolters, JJ., granted vendors and real estate agent's demurrer to first amended complaint for failure to state cause of action, and purchaser appealed. The Court of Appeal, Blease, J., held that purchaser stated a cause of action against vendor and real estate agent for vendor's failure to disclose that house was the site of a multiple murder.

Reversed.

[1] FRAUD k17

184k17

"Concealment" is a term of art which includes mere nondisclosure when a party has a duty to disclose.

See publication Words and Phrases for other judicial constructions and definitions.

[2] FRAUD k17

184k17

In general, a vendor of real property has the duty to disclose where vendor knows of facts materially affecting value or desirability of property which are known or accessible only to him and also knows that such facts are not known to, or within reach of diligent attention and observation of purchaser.

[3] FRAUD k64(4)

184k64(4)

Whether information withheld from a purchaser is of sufficient materiality to effect value or desirability of property depends on facts of particular case.

[4] FRAUD k64(4)

184k64(4)

"Materiality" of information is a question of law, and is part of concept of right to rely or justifiable reliance.

[5] FRAUD k17

184k17

Failure of vendor to disclose a negative fact such as ill—repute or "bad will" where it will have a foreseeably depressing effect on income expected to be generated by a business is tortious.

[6] BROKERS k100

65k100

Purchaser stated a cause of action against vendor and real estate agent for vendor's failure to disclose that house was site of a multiple murder.

[6] FRAUD k43

184k43

Purchaser stated a cause of action against vendor and real estate agent for vendor's failure to disclose that house was site of a multiple murder.

****130 *263 McKernan & Lanam and Stephen E. Benson, Chico, for plaintiff and appellant.**

Price, Burnes, Price, Davis & Brown, Philip B. Price, Chico, and Mary Marsh Linde for defendants and respondents.

BLEASE, Associate Justice.

In the sale of a house, must the seller disclose it was the site of a multiple murder? Dorris Reed purchased a house from Robert King. Neither King nor his real estate agents (the other named defendants) told Reed that a woman and her four children were murdered there ten years earlier. However, it seems "truth will come to light; murder cannot be hid long." (Shakespeare, Merchant of Venice, Act II, Scene II.) Reed learned of the gruesome episode from a neighbor after the sale. She sues seeking rescission and damages. King and the real estate agent defendants successfully demurred to her first ***264** amended complaint for failure to state a cause of action. Reed appeals the ensuing judgment of dismissal. We will reverse the judgment.

FACTS

We take all issuable facts pled in Reed's complaint as true. (See 3 Witkin, Cal.Procedure **131 (2d ed. 1971) Pleading, s 800.) King and his real estate agent knew about the murders and knew the event materially effected the market value of the house when they listed it for sale. They represented to Reed the premises were in good condition and fit for an "elderly lady" living alone. They did not disclose the fact of the murders. At some point King asked a neighbor not to inform Reed of that event. Nonetheless, after Reed moved in neighbors informed her no one was interested in purchasing the house because of the stigma. Reed paid \$76,000, but the house is only worth \$65,000 because of its past.

The trial court sustained the demurrers to the complaint on the ground it did not state a cause of action. The court concluded a cause of action could only be stated "if the subject property, by reason of the prior circumstances, were presently the object of community notoriety [...]." (Original italics.) Reed declined the offer of leave to amend.

Discussion

Does Reed's pleading state a cause of action? Concealed within this question is the nettlesome problem of the duty of disclosure of blemishes on real property which are not physical defects or legal impairments to use.

Reed seeks to state a cause of action sounding in contract, i.e. rescission, or in tort, i.e. deceit. In either event her allegations must reveal a fraud. (See Civ.Code, ss 1571—1573, 1689, 1709—1710.) "The elements of actual fraud, whether as the basis of the remedy in contract or tort, may be stated as follows: There must be (1) a false representation or concealment of a material fact (or, in some cases, an opinion) susceptible of knowledge, (2) made with knowledge of its falsity or without sufficient knowledge on the subject to warrant a representation, (3) with the intent to induce the person to whom it is made to act upon it; and such person must (4) act in reliance upon the representation (5) to his damage." [FN1] (Original italics.) (1 Witkin, Summary of California Law (8th ed. 1973) Contracts, s 315.)

FN1. Proof of damage, i.e. specific pecuniary loss, is not essential to obtain rescission alone. (See 1 Witkin, op. cit. supra, ss 324—325; see also Earl v. Saks & Co. (1951) 36 Cal.2d 602, 226 P.2d 340.)

The trial court perceived the defect in Reed's complaint to be a failure to allege concealment of a material fact. "Concealment" and "material" are *265 legal conclusions concerning the effect of the issuable facts pled. As appears, the analytic pathways to these conclusions are intertwined.

[1] Concealment is a term of art which includes mere non—disclosure when a party has a duty to disclose. (See e.g. Lingsch v. Savage (1963) 213 Cal.App.2d 729, 738, 29 Cal.Rptr. 201; Rest.2d Contracts, s 161; Rest.2d Torts, s 551; Rest.Restitution, s 8, esp. com. b.) Reed's complaint reveals only non—disclosure despite the allegation King asked a neighbor to hold his peace. There is no allegation the attempt at suppression was a cause in fact of Reed's ignorance. [FN2] (See Rest.2d Contracts, ss 160, 162—164; Rest.2d Torts, s 550; Rest.Restitution, s 9.) Accordingly, the critical question is: does

the seller have duty to disclose here? Resolution of this question depends on the materiality of the fact of the murders.

FN2. Reed elsewhere in the complaint asserts defendants "actively concealed" the fact of the murders and this in part misled her. However, no connection is made or apparent between the legal conclusion of active concealment and any issuable fact pled by Reed. Accordingly, the assertion is insufficient. (See *Bacon v. Soule* (1912) 19 Cal.App. 428, 438, 126 P. 384.) Similarly we do not view the statement the house was fit for Reed to inhabit as transmuting her case from one of non-disclosure to one of false representation. To view the representation as patently false is to find "elderly ladies" uniformly susceptible to squeamishness. We decline to indulge this stereotypical assumption. To view the representation as misleading because it conflicts with a duty to disclose is to beg that question.

[2] In general, a seller of real property has a duty to disclose: "where the seller knows of facts materially affecting the value or desirability of the property which are **132 known or accessible only to him and also knows that such facts are not known to, or within the reach of the diligent attention and observation of the buyer, the seller is under a duty to disclose them to the buyer. [FN3] [emphasis added; Citations omitted.]" (*Lingsch v. Savage*, supra, 213 Cal.App.2d at p. 735, 29 Cal.Rptr. 201.) This broad statement of duty has led one commentator to conclude: "The ancient maxim caveat emptor ('let the buyer beware.') has little or no application to California real estate transactions." (1 Miller and Starr, *Current Law of Cal.Real Estate* (rev. ed. 1975) s 1:80.)

FN3. The real estate agent or broker representing the seller is under the same duty of disclosure. (*Lingsch v. Savage*, supra, 213 Cal.App.2d at p. 736, 29 Cal.Rptr. 201.)

[3][4] Whether information "is of sufficient materiality to effect the value or desirability of the property [...] depends on the facts of the particular case." (*Lingsch*, supra, 213 Cal.App.2d at p. 737, 29 Cal.Rptr. 201.) Materiality "is a question of law, and is part of the concept of right to rely or justifiable reliance." (3 Witkin, *Cal.Procedure* (2d ed. 1971) Pleading, s 578, p. 2217.) Accordingly, *266 the term is essentially a label affixed to a normative conclusion. [FN4] Three considerations bear on this legal conclusion: the gravity of the harm inflicted by non-disclosure; the fairness of imposing a duty of discovery on the buyer as an alternative to compelling disclosure, and its impact on the stability of contracts if rescission is permitted.

FN4. This often subsumes a policy analysis of the effect of permitting rescission on the stability of contracts. (See fn. 6, ante.) "In the case law of fraud, the word 'material' has become a sort of talisman. It is suggested that it has no meaning when undefined other than to the user since the word actually means no more than that the fraud is the sort which will justify rescission or damages in deceit. However, courts

continue to use materiality as a test without explanatory reference to the varying standards of reliance, damage, etc. they are following." (Note, Rescission: Fraud as Ground: Contracts (1951) 39 Cal.L.Rev. 309, 310—311, fn. 4.)

Numerous cases have found non—disclosure of physical defects and legal impediments to use of real property are material. (See 1 Miller and Starr, *supra*, s 181.) [FN5] However, to our knowledge, no prior real estate sale case has faced an issue of non—disclosure of the kind presented here. (Compare *Earl v. Saks & Co.*, *supra*; *Kuhn v. Gottfried* (1951) 103 Cal.App.2d 80, 85—86, 229 P.2d 137.) Should this variety of ill—repute be required to be disclosed? Is this a circumstance where "non—disclosure of the fact amounts to a failure to act in good faith and in accordance with reasonable standards of fair dealing [?]" (Rest.2d Contracts, s 161, subd. (b).)

FN5. For example, the following have been held of sufficient materiality to require disclosure: the home sold was constructed on filled land (*Burkett v. J.A. Thompson & Son* (1957) 150 Cal.App.2d 523, 526, 310 P.2d 56); improvements were added without a building permit and in violation of zoning regulations (*Barder v. McClung* (1949) 93 Cal.App.2d 692, 697, 209 P.2d 808) or in violation of building codes (*Curran v. Heslop* (1953) 115 Cal.App.2d 476, 480—481, 252 P.2d 378); the structure was condemned (*Katz v. Department of Real Estate* (1979) 96 Cal.App.3d 895, 900, 158 Cal.Rptr. 766); the structure was termite—infested (*Godfrey v. Steinpress* (1982) 128 Cal.App.3d 154, 180 Cal.Rptr. 95); there was water infiltration in the soil (*Barnhouse v. City of Pinole* (1982) 133 Cal.App.3d 171, 187—188, 183 Cal.Rptr. 881); the correct amount of net income a piece of property would yield (*Ford v. Cournale* (1973) 36 Cal.App.3d 172, 179—180, 111 Cal.Rptr. 334.)

The paramount argument against an affirmative conclusion is it permits the camel's nose of unrestrained irrationality admission to the tent. If such an "irrational" consideration is permitted as a basis of rescission the stability of all conveyances will be seriously undermined. Any fact that might disquiet the enjoyment of some segment of the buying public may be seized upon by a disgruntled purchaser to void a bargain. [FN6] In our view, keeping *267 this genie **133 in the bottle is not as difficult a task as these arguments assume. We do not view a decision allowing Reed to survive a demurrer in these unusual circumstances as endorsing the materiality of facts predicated peripheral, insubstantial, or fancied harms.

FN6. Concern for the effects of an overly indulgent rescission policy on the stability of bargains is not new. Our Supreme Court early on quoted with approval the sentiment: "The power to cancel a contract is a most extraordinary power. It is one which should be exercised with great caution, nay, I may say, with great reluctance,—unless in a clear case. A too free use of this power would render all business uncertain, and, as has been said, make the length of a chancellor's foot the measure of individual rights. The greatest liberty of making contracts is essential to the business interests of the country. In general, the parties must look out for

themselves." (Colton v. Stanford (1890) 82 Cal. 351, 398, 23 P. 16.)

The murder of innocents is highly unusual in its potential for so disturbing buyers they may be unable to reside in a home where it has occurred. This fact may foreseeably deprive a buyer of the intended use of the purchase. Murder is not such a common occurrence that buyers should be charged with anticipating and discovering this disquieting possibility. Accordingly, the fact is not one for which a duty of inquiry and discovery can sensibly be imposed upon the buyer.

Reed alleges the fact of the murders has a quantifiable effect on the market value of the premises. [FN7] We cannot say this allegation is inherently wrong and, in the pleading posture of the case, we assume it to be true. If information known or accessible only to the seller has a significant and measureable effect on market value and, as is alleged here, the seller is aware of this effect, we see no principled basis for making the duty to disclose turn upon the character of the information. Physical usefulness is not and never has been the sole criterion of valuation. Stamp collections and gold speculation would be insane activities if utilitarian considerations were the sole measure of value. (See also Civ.Code, s 3355 [deprivation of property of peculiar value to owner]; Annot. (1950) 12 A.L.R.2d 902 [measure of damages for conversion or loss of, or damage to, personal property having no market value].)

FN7. See Evidence Code section 810 et seq. We note the traditional formulation of market value assumes a buyer "with knowledge of all the uses and purposes to which [the realty] is adapted." (See e.g. South Bay Irr. Dist. v. California—American Water Co. (1976) 61 Cal.App.3d 944, 961 and 970, 133 Cal.Rptr. 166.)

[5][6] Reputation and history can have a significant effect on the value of realty. "George Washington slept here" is worth something, however physically inconsequential that consideration may be. Ill—repute or "bad will" conversely may depress the value of property. Failure to disclose such a negative fact where it will have a foreseeably depressing effect on income expected to be generated by a business is tortious. (See Rest.2d Torts, s 551, illus. 11.) Some cases have held that unreasonable fears of the potential buying public that a gas or oil pipeline may rupture may depress the market value of land and entitle the owner to incremental compensation in eminent domain. (See Annot., eminent Domain: Elements and measure of compensation for oil or gas pipeline through private property (1954) 38 A.L.R.2d 788, 801—804.)

*268 Whether Reed will be able to prove her allegation the decade—old multiple murder has a significant effect on market value we cannot determine. [FN8] If she is able to do so by competent evidence she is entitled to a favorable ruling on the issues of materiality and duty to disclose. [FN9] Her demonstration **134 of objective tangible harm would still the concern that permitting her to go forward will open the floodgates to rescission on subjective and idiosyncratic grounds.

FN8. "[I]n determining what factors would motivate [buyers and sellers] in reaching an agreement as to price, and in weighing the effect of

their motivation, [the trier of fact] may rely upon the opinion of experts in the field and also upon its knowledge and experience shared in common with people in general." (South Bay Irr. Dist., *supra*, 61 Cal.App.3d at p. 970, 133 Cal.Rptr. 166; see also 3 Wigmore, Evidence (Chadbourn rev. ed. 1970) s 711 et seq.)

FN9. The ruling of the trial court requiring the additional element of notoriety, i.e. widespread public knowledge, is unpersuasive. Lack of notoriety may facilitate resale to yet another unsuspecting buyer at the "market price" of a house with no ill—repute. However, it appears the buyer will learn of the possibly unsettling history of the house soon after moving in. Those who suffer no discomfort from the specter of residing in such quarters *per se*, will nonetheless be discomforted by the prospect they have bought a house that may be difficult to sell to less hardy souls. Non—disclosure must be evaluated as fair or unfair regardless of the ease with which a buyer may escape this discomfort by foisting it upon another.

A more troublesome question would arise if a buyer in similar circumstances were unable to plead or establish a significant and quantifiable effect on market value. However, this question is not presented in the posture of this case. Reed has not alleged the fact of the murders has rendered the premises useless to her as a residence. As currently pled, the gravamen of her case is pecuniary harm. We decline to speculate on the abstract alternative.

The judgment is reversed.

EVANS, Acting P.J., and CARR, J., concur.

Hearing denied; RICHARDSON, J., dissenting.

Appendix II

Stambovsky v. Ackley

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572 N.Y.S.2d 672
60 USLW 2070

(Cite as: 169 A.D.2d 254, 572 N.Y.S.2d 672)

Jeffrey M. STAMBOVSKY, Plaintiff—Appellant,
v.

Helen V. ACKLEY and Ellis Realty, Defendants—Respondents.
Supreme Court, Appellate Division,
First Department.
July 18, 1991.

Purchaser of home brought action against vendor and broker for rescission and damages. The Supreme Court, New York County, Lehner, J., dismissed, and purchaser appealed. The Supreme Court, Appellate Division, Rubin, J., held that: (1) vendor was estopped to deny existence of poltergeists on the premises, so that house was haunted as a matter of law; (2) equitable remedy of rescission was available; (3) vendor who had undertaken to inform the public at large about the existence of poltergeists had a duty to inform purchaser; (4) haunting is not a condition which can and should be ascertained by reasonable inspection of the premises; but (5) there was no cause of action against the broker.

Affirmed as modified.

Smith, J., dissented and filed an opinion in which Milonas, J.P., concurred.

[1] ESTOPPEL k83(1)
156k83(1)

Homeowner who reported presence in her home of poltergeists or spectral apparitions in both national publication and local press was estopped to deny their existence so that, as a matter of law, house was haunted.

[2] VENDOR AND PURCHASER k33
400k33

Impact of reputation of house created by efforts of the vendor to publicize her close encounters with spirits in the home went to the very essence of the bargain between the parties and greatly impaired the value of the property and its potential for resale.

[3] VENDOR AND PURCHASER k45
400k45

Extent of impairment of value of property and its potential for resale resulting from vendor's prior efforts to publicize the fact that it was haunted would be presumed or review of motion to dismiss action for rescission and was an issue of fact for resolution of trial.

[4] BROKERS k102
65k102

Broker, as agent for seller, is under no duty to disclose to potential purchaser a phantasmal reputation of the premises, which are reputed to be possessed by poltergeists.

[5] VENDOR AND PURCHASER k107
400k107

Equity would permit purchaser to rescind contract for sale of home and recover his down payment upon discovery of home's reputation as being haunted.

[6] VENDOR AND PURCHASER k37(7)
400k37(7)

New York law does not recognize any remedy for damages incurred as result of vendor's mere silence, and the strict rule of caveat emptor applies.

[7] VENDOR AND PURCHASER k36(2)
400k36(2)

Haunting of home is not a condition which can and should be ascertained upon reasonable inspection of the premises by the purchaser.

[8] VENDOR AND PURCHASER k37(1)
400k37(1)

With respect to transactions in real estate, New York law adheres to the doctrine of caveat emptor and imposes no duty on the vendor to disclose any information concerning the premises unless there is a confidential or fiduciary relationship between the parties or some conduct on the part of the seller which constitutes active concealment.

**[9] VENDOR AND PURCHASER k33
400k33**

Normally, some affirmative representation or partial disclosure is required to impose upon the vendor a duty to communicate undisclosed conditions affecting the premises.

**[10] VENDOR AND PURCHASER k37(1)
400k37(1)**

Caveat emptor is not so all-encompassing a doctrine of common law as to render every act of nondisclosure immune from redress, whether legal or equitable.

**[11] COMMON LAW k14
85k14**

Common law is not moribund and, where fairness and common sense dictate that an exception should be created, evolution of law should not be stifled by rigid application of a legal maxim.

**[12] VENDOR AND PURCHASER k37(1)
400k37(1)**

Doctrine of caveat emptor requires that buyer act prudently to assess the fitness and value of his purchase, and operates to bar the purchaser who fails to exercise due care from seeking equitable remedy of rescission.

**[13] VENDOR AND PURCHASER k33
400k33**

Where condition which has been created by vendor materially impairs the value of the contract and is peculiarly within the knowledge of the vendor or unlikely to be discovered by a prudent purchaser exercising due care with respect to the subject transaction, nondisclosure constitutes a basis for rescission as a matter of equity.

**[14] CONTRACTS k205.30
95k205.30**

Even express disclaimer will not be given effect where the facts are particularly within the knowledge of the party invoking it.

**[15] VENDOR AND PURCHASER k33
400k33**

Merger clause in contract for sale of home which expressly disclaimed only representations made with respect to the physical condition of the premises and merely made a general reference to representations concerning "any other matter" affecting the premises did not disclaim representations with respect to paranormal phenomena, such as the presence of poltergeists.

**[16] VENDOR AND PURCHASER k79
400k79**

Vendor of house which was possessed by poltergeists did not deliver the premises "vacant" in accordance with her obligation under the provisions of contract rider.

See publication Words and Phrases for other judicial constructions and definitions.

[17] VENDOR AND PURCHASER k33

400k33

Vendor who had undertaken to inform the public at large, to whom she had no legal relationship, about supernatural occurrences on her property owed the same duty to the purchaser.

****674 *255** William M. Stein, of counsel (Hood & Stein, attorneys), Haverstraw, for plaintiff—appellant.

Andrew C. Bisulca, of counsel (Mann, Mann & Lewis, P.C., attorneys), Nyack, for defendant—respondent Helen V. Ackley.

Jeffrey J. Ellis, of counsel (Quirk & Bakalor, P.C., attorneys), New York City, for defendant—respondent Ellis Realty.

Before MILONAS, J.P., and ROSS, KASSAL, SMITH and RUBIN, JJ.

RUBIN, Justice.

Plaintiff, to his horror, discovered that the house he had recently contracted to purchase was widely reputed to be ***256** possessed by poltergeists, reportedly seen by defendant seller and members of her family on numerous occasions over the last nine years. Plaintiff promptly commenced this action seeking rescission of the contract of sale. Supreme Court reluctantly dismissed the complaint, holding that plaintiff has no remedy at law in this jurisdiction.

[1][2][3] The unusual facts of this case, as disclosed by the record, clearly warrant a grant of equitable relief to the buyer who, as a resident of New York City, cannot be expected to have any familiarity with the folklore of the Village of Nyack. Not being a "local," plaintiff could not readily learn that the home he had contracted to purchase is haunted. Whether the source of the spectral apparitions seen by defendant seller are parapsychic or psychogenic, having reported their presence in both a national publication ("Readers' Digest") and the local press (in 1977 and 1982, respectively), defendant is estopped to deny their existence and, as a matter of law, the house is haunted. More to the point, however, no divination is required to conclude that it is defendant's promotional efforts in publicizing her close encounters with these spirits which fostered the home's reputation in the community. In 1989, the house was included in a five—home walking tour of Nyack and described in a November 27th newspaper article as "a riverfront Victorian (with ghost)." The impact of the reputation thus created goes to the very essence of the bargain between the parties, greatly impairing both the value of the property and its potential for resale. The extent of this impairment may be presumed for the purpose of reviewing the disposition of this motion to dismiss the cause of action for rescission (Harris v. City of New York, 147 A.D.2d 186, 188—189, 542 N.Y.S.2d 550) and represents merely an issue of fact for resolution at trial.

[4][5][6] While I agree with Supreme Court that the real estate broker, as agent for the seller, is under no duty to disclose ****675** to a potential buyer the phantasmal reputation of the premises and that, in his

pursuit of a legal remedy for fraudulent misrepresentation against the seller, plaintiff hasn't a ghost of a chance, I am nevertheless moved by the spirit of equity to allow the buyer to seek rescission of the contract of sale and recovery of his downpayment. New York law fails to recognize any remedy for damages incurred as a result of the seller's mere silence, applying instead the strict rule of caveat emptor. Therefore, the theoretical basis for granting relief, even under the extraordinary facts of this case, is elusive if not ephemeral.

*257 "Pity me not but lend thy serious hearing to what I shall unfold" (William Shakespeare, *Hamlet*, Act I, Scene V [Ghost]).

[7] From the perspective of a person in the position of plaintiff herein, a very practical problem arises with respect to the discovery of a paranormal phenomenon: "Who you gonna' call?" as the title song to the movie "Ghostbusters" asks. Applying the strict rule of caveat emptor to a contract involving a house possessed by poltergeists conjures up visions of a psychic or medium routinely accompanying the structural engineer and Terminix man on an inspection of every home subject to a contract of sale. It portends that the prudent attorney will establish an escrow account lest the subject of the transaction come back to haunt him and his client—or pray that his malpractice insurance coverage extends to supernatural disasters. In the interest of avoiding such untenable consequences, the notion that a haunting is a condition which can and should be ascertained upon reasonable inspection of the premises is a hobgoblin which should be exorcised from the body of legal precedent and laid quietly to rest.

[8][9] It has been suggested by a leading authority that the ancient rule which holds that mere non-disclosure does not constitute actionable misrepresentation "finds proper application in cases where the fact undisclosed is patent, or the plaintiff has equal opportunities for obtaining information which he may be expected to utilize, or the defendant has no reason to think that he is acting under any misapprehension" (Prosser, *Law of Torts* s 106, at 696 [4th ed., 1971]). However, with respect to transactions in real estate, New York adheres to the doctrine of caveat emptor and imposes no duty upon the vendor to disclose any information concerning the premises (*London v. Courduff*, 141 A.D.2d 803, 529 N.Y.S.2d 874) unless there is a confidential or fiduciary relationship between the parties (*Moser v. Spizzirro*, 31 A.D.2d 537, 295 N.Y.S.2d 188, *affd.*, 25 N.Y.2d 941, 305 N.Y.S.2d 153, 252 N.E.2d 632; *IBM Credit Fin. Corp. v. Mazda Motor Mfg. (USA) Corp.*, 152 A.D.2d 451, 542 N.Y.S.2d 649) or some conduct on the part of the seller which constitutes "active concealment" (see, 17 East 80th Realty Corp. v. 68th Associates, 173 A.D.2d 245, 569 N.Y.S.2d 647 [dummy ventilation system constructed by seller]; *Haberman v. Greenspan*, 82 Misc.2d 263, 368 N.Y.S.2d 717 [foundation cracks covered by seller]). Normally, some affirmative misrepresentation (e.g., *Tahini Invs., Ltd. v. Bobrowsky*, 99 A.D.2d 489, 470 N.Y.S.2d 431 [industrial waste on land allegedly used only as farm]; *Jansen v. Kelly*, 11 A.D.2d 587, 200 N.Y.S.2d 561 [land containing valuable minerals allegedly acquired for use as campsite]) or *258 partial disclosure (*Junius Constr. Corp. v. Cohen*, 257 N.Y. 393, 178 N.E. 672 [existence of third unopened street concealed]; *Noved Realty Corp. v. A.A.P. Co.*, 250 App.Div. 1, 293 N.Y.S. 336 [escrow agreements securing lien concealed]) is required to impose upon the seller a duty to

communicate undisclosed conditions affecting the premises (contra, *Young v. Keith*, 112 A.D.2d 625, 492 N.Y.S.2d 489 [defective water and sewer systems concealed]).

[10][11] Caveat emptor is not so all-encompassing a doctrine of common law as to render every act of non-disclosure immune from redress, whether legal or equitable. "In regard to the necessity of giving information which has not been asked, the rule differs somewhat at law and in equity, and while the law courts would permit no recovery of damages against a vendor, because of mere concealment of facts under certain circumstances, yet if the vendee refused **676 to complete the contract because of the concealment of a material fact on the part of the other, equity would refuse to compel him so to do, because equity only compels the specific performance of a contract which is fair and open, and in regard to which all material matters known to each have been communicated to the other" (*Rothmiller v. Stein*, 143 N.Y. 581, 591—592, 38 N.E. 718 [emphasis added]). Even as a principle of law, long before exceptions were embodied in statute law (see, e.g., UCC 2—312, 2—313, 2—314, 2—315; 3—417[2][e]), the doctrine was held inapplicable to contagion among animals, adulteration of food, and insolvency of a maker of a promissory note and of a tenant substituted for another under a lease (see, *Rothmiller v. Stein*, supra, at 592—593, 38 N.E. 718 and cases cited therein). Common law is not moribund. Ex facto jus oritur (law arises out of facts). Where fairness and common sense dictate that an exception should be created, the evolution of the law should not be stifled by rigid application of a legal maxim.

[12] The doctrine of caveat emptor requires that a buyer act prudently to assess the fitness and value of his purchase and operates to bar the purchaser who fails to exercise due care from seeking the equitable remedy of rescission (see, e.g., *Rodas v. Manitaras*, 159 A.D.2d 341, 552 N.Y.S.2d 618). For the purposes of the instant motion to dismiss the action pursuant to CPLR 3211(a)(7), plaintiff is entitled to every favorable inference which may reasonably be drawn from the pleadings (*Arrington v. New York Times Co.*, 55 N.Y.2d 433, 442, 449 N.Y.S.2d 941, 434 N.E.2d 1319; *Rovello v. Orofino Realty Co.*, 40 N.Y.2d 633, 634, 389 N.Y.S.2d 314, 357 N.E.2d 970), specifically, in this instance, that he met his obligation to conduct an inspection of the premises and a search of available public records with respect *259 to title. It should be apparent, however, that the most meticulous inspection and the search would not reveal the presence of poltergeists at the premises or unearth the property's ghoulish reputation in the community. Therefore, there is no sound policy reason to deny plaintiff relief for failing to discover a state of affairs which the most prudent purchaser would not be expected to even contemplate (see, *Da Silva v. Musso*, 53 N.Y.2d 543, 551, 444 N.Y.S.2d 50, 428 N.E.2d 382).

The case law in this jurisdiction dealing with the duty of a vendor of real property to disclose information to the buyer is distinguishable from the matter under review. The most salient distinction is that existing cases invariably deal with the physical condition of the premises (e.g., *London v. Courduff*, supra [use as a landfill]; *Perin v. Mardine Realty Co.*, 5 A.D.2d 685, 168 N.Y.S.2d 647 affd. 6 N.Y.2d 920, 190 N.Y.S.2d 995, 161 N.E.2d 210 [sewer line crossing adjoining property without owner's consent]), defects in title

(e.g., *Sands v. Kissane*, 282 App.Div. 140, 121 N.Y.S.2d 634 [remainderman]), liens against the property (e.g., *Noved Realty Corp. v. A.A.P. Co.*, supra), expenses or income (e.g., *Rodas v. Manitaras*, supra [gross receipts]) and other factors in its operation. No case has been brought to this court's attention in which the property value was impaired as the result of the reputation created by information disseminated to the public by the seller (or, for that matter, as a result of possession by poltergeists).

[13] Where a condition which has been created by the seller materially impairs the value of the contract and is peculiarly within the knowledge of the seller or unlikely to be discovered by a prudent purchaser exercising due care with respect to the subject transaction, nondisclosure constitutes a basis for rescission as a matter of equity. Any other outcome places upon the buyer not merely the obligation to exercise care in his purchase but rather to be omniscient with respect to any fact which may affect the bargain. No practical purpose is served by imposing such a burden upon a purchaser. To the contrary, it encourages predatory business practice and offends the principle that equity will suffer no wrong to be without a remedy.

[14][15][16] Defendant's contention that the contract of sale, particularly the merger or "as is" clause, bars recovery of the buyer's **677 deposit is unavailing. Even an express disclaimer will not be given effect where the facts are peculiarly within the knowledge of the party invoking it (*Danann Realty Corp. v. Harris*, 5 N.Y.2d 317, 322, 184 N.Y.S.2d 599, 157 N.E.2d 597; *Tahini Invs., Ltd. v. Bobrowsky*, supra). Moreover, a fair reading of the merger clause reveals that it expressly *260 disclaims only representations made with respect to the physical condition of the premises and merely makes general reference to representations concerning "any other matter or things affecting or relating to the aforesaid premises". As broad as this language may be, a reasonable interpretation is that its effect is limited to tangible or physical matters and does not extend to paranormal phenomena. Finally, if the language of the contract is to be construed as broadly as defendant urges to encompass the presence of poltergeists in the house, it cannot be said that she has delivered the premises "vacant" in accordance with her obligation under the provisions of the contract rider.

To the extent New York law may be said to require something more than "mere concealment" to apply even the equitable remedy of rescission, the case of *Junius Construction Corporation v. Cohen*, 257 N.Y. 393, 178 N.E. 672, supra, while not precisely on point, provides some guidance. In that case, the seller disclosed that an official map indicated two as yet unopened streets which were planned for construction at the edges of the parcel. What was not disclosed was that the same map indicated a third street which, if opened, would divide the plot in half. The court held that, while the seller was under no duty to mention the planned streets at all, having undertaken to disclose two of them, he was obliged to reveal the third (see also, *Rosenschein v. McNally*, 17 A.D.2d 834, 233 N.Y.S.2d 254).

[17] In the case at bar, defendant seller deliberately fostered the public belief that her home was possessed. Having undertaken to inform the public at large, to whom she has no legal relationship, about the supernatural occurrences on her property, she may be said to owe no less a

duty to her contract vendee. It has been remarked that the occasional modern cases which permit a seller to take unfair advantage of a buyer's ignorance so long as he is not actively misled are "singularly unappetizing" (Prosser, Law of Torts s 106, at 696 [4th ed. 1971]). Where, as here, the seller not only takes unfair advantage of the buyer's ignorance but has created and perpetuated a condition about which he is unlikely to even inquire, enforcement of the contract (in whole or in part) is offensive to the court's sense of equity. Application of the remedy of rescission, within the bounds of the narrow exception to the doctrine of caveat emptor set forth herein, is entirely appropriate to relieve the unwitting purchaser from the consequences of a most unnatural bargain.

Accordingly, the judgment of the Supreme Court, New York *261 County (Edward H. Lehner, J.), entered April 9, 1990, which dismissed the complaint pursuant to CPLR 3211(a)(7), should be modified, on the law and the facts and in the exercise of discretion, and the first cause of action seeking rescission of the contract reinstated, without costs.

Judgment, Supreme Court, New York County (Edward H. Lehner, J.), entered on April 9, 1990, modified, on the law and the facts and in the exercise of discretion, and the first cause of action seeking rescission of the contract reinstated, without costs.

All concur except MILONAS, J.P. and SMITH, J., who dissent in an opinion by SMITH, J.

SMITH, Justice (dissenting).

I would affirm the dismissal of the complaint by the motion court.

Plaintiff seeks to rescind his contract to purchase defendant Ackley's residential property and recover his down payment. Plaintiff alleges that Ackley and her real estate broker, defendant Ellis Realty, made material misrepresentations of the property in that they failed to disclose that Ackley believed that the house was haunted by poltergeists. Moreover, Ackley shared this belief with her community and the general **678 public through articles published in Reader's Digest (1977) and the local newspaper (1982). In November 1989, approximately two months after the parties entered into the contract of sale but subsequent to the scheduled October 2, 1989 closing, the house was included in a five—house walking tour and again described in the local newspaper as being haunted.

Prior to closing, plaintiff learned of this reputation and unsuccessfully sought to rescind the \$650,000 contract of sale and obtain return of his \$32,500 down payment without resort to litigation. The plaintiff then commenced this action for that relief and alleged that he would not have entered into the contract had he been so advised and that as a result of the alleged poltergeist activity, the market value and resaleability of the property was greatly diminished. Defendant Ackley has counterclaimed for specific performance.

"It is settled law in New York that the seller of real property is under no duty to speak when the parties deal at arm's length. The mere silence of the seller, without some act or conduct which deceived the purchaser, does not amount to a concealment that is actionable as a fraud (see *Perin v. Mardine Realty Co., Inc.*, 5 A.D.2d 685, 168 N.Y.S.2d 647, *aff'd.*, 6 N.Y.2d 920,

190 N.Y.S.2d 995, 161 N.E.2d 210; Moser v. Spizzirro, 31 A.D.2d 537, 295 N.Y.S.2d 188, *aff'd.*, 25 N.Y.2d 941, 305 N.Y.S.2d 153, 252 N.E.2d 632). The buyer has the duty to satisfy himself as to the quality of his bargain pursuant to the doctrine of caveat emptor, which in New York State still applies to real estate transactions." London v. Courduff, 141 A.D.2d 803, 804, 529 N.Y.S.2d 874, *app. dismissed*, 73 N.Y.2d 809, 537 N.Y.S.2d 494, 534 N.E.2d 332 (1988).

The parties herein were represented by counsel and dealt at arm's length. This is evidenced by the contract of sale which, *inter alia*, contained various riders and a specific provision *262 that all prior understandings and agreements between the parties were merged into the contract, that the contract completely expressed their full agreement and that neither had relied upon any statement by anyone else not set forth in the contract. There is no allegation that defendants, by some specific act, other than the failure to speak, deceived the plaintiff. Nevertheless, a cause of action may be sufficiently stated where there is a confidential or fiduciary relationship creating a duty to disclose and there was a failure to disclose a material fact, calculated to induce a false belief. County of Westchester v. Welton Becket Assoc., 102 A.D.2d 34, 50—51, 478 N.Y.S.2d 305, *aff'd.*, 66 N.Y.2d 642, 495 N.Y.S.2d 364, 485 N.E.2d 1029 (1985). However, plaintiff herein has not alleged and there is no basis for concluding that a confidential or fiduciary relationship existed between these parties to an arm's length transaction such as to give rise to a duty to disclose. In addition, there is no allegation that defendants thwarted plaintiff's efforts to fulfill his responsibilities fixed by the doctrine of caveat emptor. See London v. Courduff, *supra*, 141 A.D.2d at 804, 529 N.Y.S.2d 874.

Finally, if the doctrine of caveat emptor is to be discarded, it should be for a reason more substantive than a poltergeist. The existence of a poltergeist is no more binding upon the defendants than it is upon this court.

Based upon the foregoing, the motion court properly dismissed the complaint.

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Appendix III

California Real Estate Disclosure Form

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CA CIVIL 1102.6

West's Ann.Cal.Civ.Code s 1102.6

WEST'S ANNOTATED CALIFORNIA CODES

CIVIL CODE

DIVISION 2. PROPERTY

PART 4. ACQUISITION OF PROPERTY

TITLE 4. TRANSFER

2. TRANSFER OF REAL PROPERTY

ARTICLE 1.5. DISCLOSURES UPON TRANSFER OF RESIDENTIAL PROPERTY

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Current through the 1995 portion of the 1995—96 legislative sessions.

s 1102.6. Disclosure form

The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF

_____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____.

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE

ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS

OF _____, 19___. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102

of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase—money liens on residential property).

Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

() Inspection reports completed pursuant to the contract of sale or receipt for deposit.

() Additional inspection reports or disclosures:

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even

though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject

property. Seller hereby authorizes any agent(s) representing any principal(s)

in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE

REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND

IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller ___is ___is not occupying the property.

A. The subject property has the items checked below (read across):

☐ Range ☐ Oven ☐ Microwave
☐ Dishwasher ☐ Trash Compactor ☐ Garbage Disposal
☐ Washer/Dryer Hookups ☐ Window Screens ☐ Rain Gutters
☐ Burglar Alarms ☐ Smoke Detector(s) ☐ Fire Alarm
☐ T.V. Antenna ☐ Satellite Dish ☐ Intercom
☐ Central Heating ☐ Central Air Cndtng. ☐ Evaporator Cooler(s)
☐ Wall/Window Air Cndtng. ☐ Sprinklers ☐ Public Sewer System
☐ Septic Tank ☐ Sump Pump ☐ Water Softener
☐ Patio/Decking ☐ Built-in Barbeque ☐ Gazebo
☐ Sauna ☐ Pool ☐ Spa ☐ Hot Tub
☐ Security Gate(s) ☐ Automatic Garage ☐ Number Remote
 Door Opener(s) [FN*] Controls
 Garage: ☐ Attached ☐ Not Attached ☐ Carport
 Pool/Spa Heater: ☐ Gas ☐ Solar ☐ Electric
 Water Heater: ☐ Gas ☐ Private Utility or
 Water Supply: ☐ City ☐ Well Other _____
 Gas Supply: ☐ Utility ☐ Bottled

Exhaust Fan(s) in _____ 220 Volt Wiring in _____ Fireplace(s) in _____

Gas Starter _____ Roof(s): Type: _____ Age: _____
 (approx.)

Other: _____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? ☐ Yes ☐ No. If yes, then describe.

(Attach additional sheets if necessary):

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? ☐ Yes ☐ No. If yes, check appropriate space(s) below.

☐ Interior Walls ☐ Ceilings ☐ Floors ☐ Exterior Walls ☐ Insulation ☐ Roof(s)
☐ Windows ☐ Doors ☐ Foundation ☐ Slab(s) ☐ Driveways ☐ Sidewalks
☐ Walls/Fences ☐ Electrical Systems ☐ Plumbing/Sewers/Septics ☐ Other

Structural Components (Describe:

_____)

If any of the above is checked, explain. (Attach additional sheets if necessary):

[FN*] This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code.

C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property [...]._____ ☐Yes ☐No
2. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property ☐Yes ☐No
3. Any encroachments, easements or similar matters that may affect your interest in the subject property ☐Yes ☐No
4. Room additions, structural modifications, or other alterations or repairs made without necessary permits ☐Yes ☐No
5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes ☐Yes ☐No
6. Fill (compacted or otherwise) on the property or any portion thereof ☐Yes ☐No
7. Any settling from any cause, or slippage, sliding, or other soil problems ☐Yes ☐No
8. Flooding, drainage or grading problems ☐Yes ☐No
9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides ☐Yes ☐No
10. Any zoning violations, nonconforming uses, violations of "setback" requirements ☐Yes ☐No
11. Neighborhood noise problems or other nuisances ☐Yes ☐No
12. CC&R's or other deed restrictions or obligations ☐Yes ☐No
13. Homeowners' Association which has any authority over the subject property ☐Yes ☐No
14. Any "common area" (facilities such as pools, tennis courts,

walkways, or other areas co—owned in undivided interest
with others) ☐ Yes ☐ No

15. Any notices of abatement or citations against the property .. ☐ Yes
☐ No

16. Any lawsuits by or against the seller threatening to or
affecting this real property, including any lawsuits
alleging a defect or deficiency in this real property or
"common areas" (facilities such as pools, tennis courts,
walkways, or other areas co—owned in undivided interest
with others) ☐ Yes ☐ No

If the answer to any of these is yes, explain. (Attach additional sheets if
necessary.):

Seller certifies that the information herein is true and correct to the best
of
the Seller's knowledge as of the date signed by the Seller.

Seller _____

Date _____

Seller _____

Date _____

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an agent in this
transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO
THE
CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND
DILIGENT
VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN
CONJUNCTION WITH
THAT INQUIRY, STATES THE FOLLOWING:

() Agent notes no items for disclosure.

() Agent notes the following items:

 Agent (Broker
 Representing Seller) _____ By _____
 Date _____
 (Please Print) (Associate Licensee
 or Broker—Signature)

IV

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than
 the
 agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT
 VISUAL INSPECTION
 OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

- () Agent notes no items for disclosure.
 () Agent notes the following items:

Agent (Broker
 obtaining the Offer) _____ By _____
 Date _____
 (Please Print) (Associate Licensee
 or Broker—Signature)

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE
 AND/OR
 INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE
 PROVISIONS IN A
 CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY
 ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____ Buyer _____
 Date _____
 Seller _____ Date _____ Buyer _____
 Date _____

Agent (Broker
 Representing Seller) _____ By _____
 Date _____
 (Associate Licensee
 or Broker—Signature)

Agent (Broker
 obtaining the Offer) _____ By _____
 Date _____
 (Associate Licensee
 or Broker—Signature)

SECTION 1102.2 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

CREDIT(S)

1996 Pocket Part (Added by Stats.1985, c. 1574, s 2, operative Jan. 1, 1987. Amended by Stats.1986, c. 460, s 5; Stats.1989, c. 171, s 1; Stats.1990, c. 1336 (A.B.3600), s 2, operative July 1, 1991; Stats.1994, c. 817 (S.B.1377), s 2.)

<General Materials (GM) — References, Annotations, or Tables>



