



Victoria Government Gazette

No. S 119 Wednesday 12 April 2017
By Authority of Victorian Government Printer

Estate Agents Act 1980

DETERMINATION OF THE MELBOURNE METROPOLITAN AREA

Sections 47AC and 47AD of the **Estate Agents Act 1980**

Section 47AD(2) of the **Estate Agents Act 1980** (the Act) provides the authority for this Determination which is made by the Director of Consumer Affairs Victoria and published on the Consumer Affairs Victoria website at consumer.vic.gov.au/underquoting.

The following local government areas are determined to comprise the Melbourne metropolitan area for the purpose of section 47AC of the Act:

- City of Banyule
- City of Bayside
- City of Boroondara
- City of Brimbank
- Shire of Cardinia
- City of Casey
- City of Darebin
- City of Frankston
- City of Glen Eira
- City of Greater Dandenong
- City of Hobsons Bay
- City of Hume
- City of Kingston
- City of Knox
- City of Manningham
- City of Maribyrnong
- City of Maroondah
- City of Melbourne
- City of Melton
- City of Monash
- City of Moonee Valley
- City of Moreland
- Shire of Mornington Peninsula
- Shire of Nillumbik
- City of Port Phillip
- City of Stonington
- City of Whitehorse
- City of Whittlesea
- City of Wyndham
- City of Yarra, and
- Shire of Yarra Ranges.

Dated 12 April 2017

SIMON COHEN
Director
Consumer Affairs Victoria

SPECIAL

Estate Agents Act 1980
GUIDELINES FOR SELECTING COMPARABLE PROPERTY SALES
– RESIDENTIAL PROPERTY

Sections 47AC and 47AD of the **Estate Agents Act 1980**

About These Guidelines

Section 47AD(1) of the **Estate Agents Act 1980** (the Act) provides the authority for these guidelines, which are made by the Director of Consumer Affairs Victoria for the purpose of section 47AC(2)(d) of the Act. These guidelines are published on the Consumer Affairs Victoria website at consumer.vic.gov.au/underquoting.

These guidelines set out the factors that you as an estate agent or agent's representative must take into account when selecting the three property sales that you reasonably consider to be most comparable to the residential property that you have been engaged to sell.

Your Requirements Under the Act

The requirements relating to the estimated selling price and the comparable property sales are set out in sections 47A, 47AB, 47AC and 47AF of the Act.

You must include your estimate of the selling price for a residential property in your sales authority before it is signed by the seller. Your estimate must be reasonable and take into account the three most comparable property sales. You are not required to consider comparable property sales to determine your estimated selling price, if you reasonably believe that fewer than three comparable properties were sold in the prescribed times and locations.

Under section 47AC(1) and (4) of the Act a comparable property is a property that is of a similar standard and condition to the property for sale, and has either been:

- sold within the last six months and is located within two kilometres of the property for sale if that property is located within the Melbourne metropolitan area, or
- sold within the last 18 months and is located within five kilometres of the property for sale if that property is located outside the Melbourne metropolitan area.

The Determination setting out the local government areas that comprise the Melbourne metropolitan area is published on the Consumer Affairs Victoria website at consumer.vic.gov.au/underquoting.

The details of the three most comparable property sales must also be included in the Statement of Information that you must provide to a prospective buyer within two business days of a request, display at any open for inspection and include with any internet advertising for the property being offered for sale. If comparable property sales were not taken into account when setting the estimated selling price, a statement outlining that you reasonably believe there are less than three comparable sales available must be included in the Statement of Information.

To select the most comparable property sales, you must take into account the factors specified in section 47AC(2) of the Act and these guidelines.

Factors You Must Consider

Your aim is to find past sales of comparable properties where the properties that were sold are most like the property being offered for sale.

Section 47AC(2) of the Act specifies the following factors you must consider when selecting the three comparable property sales:

- the standard and condition of the properties
- the location of the properties
- the dates on which the properties were sold, and
- these guidelines.

The matters that you must consider for each of these factors are detailed below.

1. **Properties of a similar standard and condition** – To ensure that a comparable property is of a similar standard and condition to the property being offered for sale you must consider the following features of the comparable property at the time it was sold.
 - Its external construction – for example, the building materials used.
Its architectural style and layout.
 - Its size including the number of bedrooms, number of bathrooms, the number of car parking spaces and land size, if available.
 - Any special features, for example, a swimming pool or a tennis court.
2. **Properties in a similar location** – A comparable property must be located in a similar area and as close as possible to the property for sale. Ideally, your three comparable properties should be in the same street, or within a few streets, or in the same suburb or locality, and have the same zoning and street frontage as the property being offered for sale. They should have similar neighbourhood features in terms of proximity to shops, transport, schools, parks, business and industry.

The limits for the location of a comparable property are specified in section 47AC(4) of the Act. For a property for sale in the Melbourne metropolitan area, a comparable property must be within two kilometres of that property. For a property for sale outside the Melbourne metropolitan area, a comparable property must be within five kilometres of that property.
3. **Recently sold properties** – The date of a comparable property sale is an indication of the market conditions at the time that property was sold. Therefore, the closer the dates of sale of your three comparable properties to the date you estimate the selling price of the property, the better your estimate will reflect the current market conditions. The limits for the timeframes you can consider are specified in section 47AC(1) of the Act – that is, six months for comparable properties located within the Melbourne metropolitan area and 18 months for those located outside that area.

Unless you reasonably believe that fewer than three comparable properties were sold in the prescribed times and distances, you must take into consideration the factors set out in section 47AC(1), (2) and (4) of the Act and the matters detailed in these guidelines to select the three most comparable property sales.

If you do not consider comparable property sales when it is appropriate to do so, or you do not consider the factors in the Act and these guidelines, you will be in breach of section 47AB of the Act, which has a penalty of a fine of up to 200 penalty units and forfeiture of commission.

Dated 12 April 2017

SIMON COHEN
Director
Consumer Affairs Victoria

bluestar * **PRINT**

The *Victoria Government Gazette* is published by Blue Star Print with the authority of the Government Printer for the State of Victoria

© State of Victoria 2017

This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act.

Address all enquiries to the Government Printer for the State of Victoria

Level 2, 1 Macarthur Street
Melbourne 3002
Victoria Australia

How To Order



**Retail &
Mail Sales**

Victoria Government Gazette

Ground Floor, Building 8,
658 Church Street,
Richmond 3121
DX 106 Melbourne



Telephone

(03) 8523 4601



Fax

(03) 9600 0478

email

gazette@bluestargroup.com.au

Price Code A