



**REAL ESTATE SELLERS: KEEP THOSE SKELETONS IN YOUR CLOSET**  
***Pennsylvania Superior Court Holds That Sellers of Residential Real Estate Not Required to Disclose Murder/Suicide on Property***

**January 16, 2013**

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Recently, the Pennsylvania Superior Court held that sellers of residential real estate are under no duty, pursuant to the Real Estate Seller Disclosure Law, 68 Pa.C.S. §7101 *et seq.* (“RSDL”), to disclose prior to a sale that a murder / suicide occurred on the property. The Court’s opinion in *Milliken v. Jacono*, 2012 PA Super 284, provides necessary clarity regarding what constitutes a “material defect” necessary to disclose to a buyer of residential real estate in Pennsylvania.



In *Milliken*, the home buyer discovered, after purchasing the property, that a murder/suicide had occurred in the home several years prior to their purchase. The home buyer sued the seller arguing that seller’s intentional non-disclosure of the murder/suicide was a misrepresentation and that the incident should have been disclosed as a “material defect” in the seller’s disclosure form. The home buyer relied on the fact that the RSDL requires that sellers disclose “material defects” to buyers which have a significant adverse impact on the value of the property. During trial, the home buyer even admitted expert testimony to help establish the fact that, had the murder/suicide been disclosed, the value of the home would have been reduced by 10-

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15%. Even with the expert testimony establishing that the murder / suicide would have reduced the asking price, the trial court found in favor of the sellers.

On appeal, the Superior Court upheld the judgment in favor of the sellers, observing that the material defect alleged by the buyer was a subjective and psychological defect rather than an objective defect (like a physical condition that can be readily identified). In the Court's view, allowing a buyer to recover damages for subjective, psychological defects to a home would open the floodgates to many unintended actions by home buyers. Moreover, what may be considered a material defect to one person may not be so important for another. For example, should sellers be required to disclose that obnoxious neighbors live next door? Should a seller be required to disclose that the home was built on a burial ground? The Court also commented that it would be impossible to determine what length of time would need to pass before a possibly material event was no longer necessary to disclose. For example, should a murder / suicide still be disclosed by a seller if it occurred more than 100 years ago?

Based on these observations, the Court held that the RSDL does not require the disclosure by sellers of psychological defects, such as the murder/suicide at issue here, and sellers assume no liability under the RSDL for failing to disclose these psychological conditions.

For more information about a seller's requirements under the RSDL or to arrange a confidential consultation to discuss a real estate matter, please contact Shumaker Williams, P.C. by visiting our [website](#) or calling 717-763-1121.

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