

A man in a dark suit, blue checkered shirt, and purple and blue striped tie is holding a white megaphone to his mouth. He has a name tag that says "John Smith". He is standing outdoors in front of a white fence. In the background, a woman in a black blazer and brown pants is holding a blue folder. Further back, a group of people, including a woman with a dog, are walking. The scene is set in a residential or community area with greenery and a building in the distance.

Understanding the underquoting law change

Underquoting

Underquoting is an offence under

- Estate Agents Act 1980

AND

- Australian Consumer Law

When do the law changes start?

The underquoting law changes start on **1 May 2017**, and only apply to the sale of **residential property**

What the new laws require

The new laws have requirements about:

- the agent's estimated selling price
- comparable property sales
- Statement of Information for buyers
- advertising prices
- offences and penalties

Agent's estimated selling price

- May be either a single price or a price range of up to 10 per cent
- Must be:
 - reasonable
 - take into account the 3 most comparable property sales, and
 - included in the sales authority in the approved form
- Comparables are not required –
 - if agent reasonably believes that there are less than 3 comparable sales within the prescribed requirements

Comparable property sales

- In the Melbourne metropolitan area must be:
 - sold within the last 6 months, and
 - located within 2 kilometres of the property for sale
- Outside the Melbourne metropolitan area must be:
 - sold within the last 18 months, and
 - located within 5 kilometres of the property for sale



Most comparable property sales

When choosing the comparable sales, agents must consider the:

- standard and condition of the properties
- location of the properties
- dates on which the properties were sold
- the guidelines issued by the Director of Consumer Affairs Victoria

Updating the estimated selling price

If their estimated selling price ceases to be reasonable an agent must:

- advise the seller in writing
- update the sales authority

Statement of Information

An agent must prepare a Statement of Information in the approved form for the property for sale that includes:

- an **indicative selling price** for the property
- details of the **three comparable** property sales, including address, date of sale, sale price
- the **suburb median** house or unit price, including the time period

Statement of Information

The **indicative selling price**:

- **must not** be less than –
 - the agent's estimated selling price
 - the seller's asking price, or
 - any written offer rejected on the basis of price
- **may** be a single price or a price range of up to 10%

Comparable sales:

- **are not** required if not used to set the estimated selling price but
- **must** state 'no comparable' in the Statement of Information

Median suburb price:

- **can** be for a period of between 3 to 12 months, and
- **must not** be more than 6 months old

Statement of Information

An agent must ensure that a Statement of Information:

- is displayed at an open for inspection
- included in any online advertising
- provided to a prospective buyer within 2 business days of their request

The Statement of Information will need to be updated if there is a change in the indicative selling price

Advertising requirements

When marketing a property for sale, an estate agent:

- may state a single price or a price range of up to 10%
- must not use qualifying words or symbols
- must not advertise or advise a price that is less than:
 - the estimated selling price, or the bottom of that price range
 - any written offer that was rejected by the seller because the price offered was too low

Updating advertising

An agent must update advertising after:

- a change in the estimated selling price
- the seller rejects a written offer because it is too low

Timelines for updating:

- Within 1 business day for online advertising
- As soon as practicable for all other advertising

Penalties

- The penalties for the new requirements have increased to 200 penalty units
- For some breaches there is the risk of loss of commission

