

Australian privacy laws to impact on property data

By Paul Chadwick

HOW CAN WE ENSURE that the property market gets reliable data quickly enough, but still respects the privacy of the people behind the data? Paul Chadwick, Privacy Commissioner for Victoria, Australia, looks at the issues.

Two new privacy laws, one state and one federal, have brought to the surface a range of issues about the property market. We need to sort out the questions that are more about the power and value of information than about privacy alone.

Recently, the *Sunday Age* opened a necessary debate by reporting the views of valuers and estate agents.

Property information is not just data about land and buildings. With today's technologies, it can be linked to identifiable individuals, and that brings into play one of society's key values, privacy.

Everyone knows it can be delicate asking about the price someone paid or received for a property. In everyday speech, we respect privacy when we say "do you mind telling me" before we ask "how much you paid for it/got for it?" Implicitly, we are recognising that the information is theirs to control. The familiar term of "price undisclosed" in the property pages reflects privacy expectations too.

Property information can be added to other data about individuals to build up profiles of them to assess creditworthiness, pursue debts, negotiate divorces or to target direct marketing. In rural settings, land values can be especially delicate information that is relevant to arrangements that are private to a family.

Research shows people regard their financial and property information as private. The Real Estate Institute of Victoria's code of conduct requires members to respect clients' confidential

information (clause 2.12). Privacy laws have not changed that longstanding expectation. Presumably agents get clients' consent before putting on shared databases property information that is not publicly available, such as prices obtained other than at auction.

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The Victorian Information Privacy Act covers state and local government organisations, many of which collect some property data compulsorily. It is needed, for example, for the Valuer-General's work, to calculate council rates and to levy land tax. But who else should get it, when, and on what conditions?

Should government keep control of this valuable data and the fees to be made from processing and selling it? If valuers and estate agents are in competition for valuation work, should data be available to both groups at the same time to help level the playing field? Will buyers and sellers be better able to bid and bargain if actual prices paid for similar properties in the area are reliably known to all? These policy issues

result from the complex interaction of many factors. They are not caused by privacy, which is a right that benefits everyone. The new laws have simply laid bare these pre-existing issues.

The Commonwealth (Federal) Privacy Act regulates the private sector, including many participants in the property market such as estate agents, investors, valuers, media (other than in their journalistic role) and lenders.

The privacy principles in both federal and state laws contain basic standards such as: telling people why it is necessary to collect their information; using it only for proper purposes; and keeping it accurate and secure.

In property, as in many areas of government and business, a balance is required between privacy and the free flow of information. The first step is to make the issues clear and to consult. That process has begun.

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*For further information see the Commissioner's website at:
www.privacy.vic.gov.au*
