



YOU AND YOUR PROPERTY

BY RESIDENTIAL PROPERTY LAWYER
MICHAEL HOFMANN-BODY

One of the features of the 2016 property landscape is the increasing importance of being aware of the impact of methamphetamine contaminated properties. I have had numerous enquiries in the past six months from real estate agents, buyers and sellers of properties asking me what options they have for dealing with or testing for the presence of methamphetamine in residential property.

Owners of methamphetamine contaminated property will find the problem to be very distressing. They will be concerned about their financial position. There will be questions over whether or not they have insurance cover for the property and the resulting contamination. Questions will need to be asked about whether they need to notify their mortgagee and there will be considerable uncertainty about what remedial action will be required. As a consequence, owners will usually suffer massive emotional and mental distress.

I am increasingly recommending my buyers consider getting a methamphetamine test before purchasing property. Risk factors come into play. Owner occupied properties will be at lower risk than rented properties but even highly regarded properties may

not be exempt from the use or manufacture of methamphetamine. I am familiar with a well-known New Zealander who discovered methamphetamine was being manufactured in an apartment several doors away from his residence in a high-quality apartment complex.

I recently acted for a seller of a property who had rented the property to their family

member. When an offer presented to them included a methamphetamine testing clause they had no concerns. It was a shock to both my seller and their family member to discover the property tested positive for methamphetamine. This jeopardised the potential sale and the family member confessed to the use of methamphetamine on the property.

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A friend of mine owns an investment property which was recently raided by the police. The property was contaminated by regular use of methamphetamine and my friend has now been issued with a notice to remediate by the local authority. At the present time, it is not clear what the cost of that remediation work will be or whether the client has insurance cover for the remediation work costs.

The health consequences of living in a methamphetamine contaminated property can be significant. Having said that, a recent media report suggested anyone who handled banknotes would have been exposed to methamphetamine. The Ministry of Health has set out guidelines for what it considers to be a safe level of exposure. The Ministry of Health baseline is being used by many agencies to determine whether a property is contaminated or not.

Properties where P has been produced or regularly used have been exposed to numerous chemicals which are absorbed by the surfaces and structural features of the property. P-contamination will not be visible to the naked eye and can only be detected by specialist testing.

There are numerous companies offering methamphetamine testing. Various methodologies are used and in my experience those methodologies produce quite different results. Of most concern to me is the cumulative testing model in which a swab is used over multiple locations within the one property and an aggregate result is achieved. In my experience, this particular methodology has produced false positives. Great care should be taken using this particular methodology. It is my preference a form of testing that takes single swabs from multiple locations is used as in my view it is more accurate.

If you are a buyer, serious consideration must be given to whether or not you should obtain a methamphetamine test before purchasing the property. If you are a seller you should exercise care as to the type of testing used by a prospective buyer if they wish to make an agreement conditional upon a methamphetamine test.

"If you would like a copy of previous articles on property written by Michael email him on michael@homelegal.co.nz."

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