



# Your Duties as a Real Estate Professional

*"five steps to **better** client relations"*

## Real Estate Brief

# 1

### **When in doubt, disclose.**

If you're a real estate agent, disclosure should be your mantra. If you know something that is or could be important, you should make sure that your seller discloses that fact. Otherwise you too could be looking at a lawsuit.

# 2

### **Know what hat you're wearing.**

Anyone in a client-serving business wants to be helpful to their clients. Unfortunately, however, in today's litigious society it is not wise to give advice beyond your area of expertise. Real estate professionals aren't usually trained as lawyers, or engineers or inspectors. So don't go beyond your expertise to answer someone's questions. That means you shouldn't tell your client that he should sign an arbitration clause because it's "cheaper and quicker" or that you think creaking in the floorboards is probably nothing. Rather, suggest and document that he discuss his concerns with the appropriate specialist.

# 3

### **Recognize your role in the process.**

While you shouldn't give advice outside your area of expertise, as a real estate professional you're often in a better position than your clients to spot red flags. Courts have often held agents to a higher standard than the average person. So while you should not give advice about a problem, it's very important that you point out potential trouble spots and steer your clients to the right specialist to help them evaluate their options.

# 4

### **Find a translator when necessary.**

Most cities, and increasing numbers of rural areas, have populations that may or may not yet be proficient in the English language. Perhaps you have a large Vietnamese community where you do business, or are working with an Ethiopian family that's fluent in Amharic but struggling with English. If your client isn't proficient in English, then you must locate a family member or friend who can translate for him. Equally important: document the conversation. For example, write down and confirm that the mother who's buying a property had her daughter explain the terms to her satisfaction, in her native language.

# 5

### **Understand your fiduciary duties.**

Your fiduciary responsibility is what you, as a real estate agent, owe to your client. It actually includes several duties:

**The duty to be absolute and undivided in your loyalty**—There should be no hint of any conflict of interest. This requires diligence, faithful service, integrity, utmost care, honesty, good faith and full disclosure.

**The duty to keep client monies in separate accounts**—Any dollars that you are holding for one client must be kept separate from other funds. Never commingle monies and always provide an accounting of all funds.

**The duty to explain and provide counsel**—As a real estate agent, it is your obligation to make sure that your client understands his or her obligations under the contract. This means, for example, that a listing agent must explain the nature and scope of disclosure requirements. And a buyer's agent needs to explain the client's right to bring in specialists to investigate aspects of the property. At the end of the day, it doesn't matter whether a buyer opts to get an inspection—just that you informed him of his right to do so and confirmed that he either did investigate or chose not to do so.



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