

There's A NEW Code in Town

Marcie Roggow, ABR/M, CCIM, CRB, CRS, DREI, GRI, SRS

The Code of Ethics Your Promise of Professionalism

I. The Structure of the Code of Ethics

- A. Three sections: Duties to Clients/Customer, Duties to the Public, Duties to REALTORS®
 - 1) The Articles are broad statements of ethical principles
 - 2) Standards of Practice Support, interpret, and amplify the Articles under which they are stated. Interpretations of the Code for purposes of the committee action.
- B. New 2011:

“While a REALTOR® cannot be found in violation of a SOP or a Case Interpretation, both are official statements of NAR policy and are NOT merely advisory. Both can be cited by complainants in support of alleged violations of Articles and by hearing panels in support of decisions that an Article has been violated!

II. The Grievance Committee and Professional Standards Committee

- A. The Grievance Committee is the Grand Jury-is there cause?
- B. The Professional Standards is the “Jury”- guilty or not?
- C. Sometimes the Grievance Committee sends things that Pro Standards that really should not have been forwarded.
- D. New ways to handle complaints:
 - 1. Citation Policy
 - 2. Ombudsman
 - 3. Mediation
 - 4. The key is to move these along and solve problems that can be solved without a hearing

III. Changes to the Code of Ethics

- A. Happens twice a year (May and November and ratified in November)
- B. What changes do you see that have been made in the last 5 years....why were those changes made?
- C. What causes the committee to make changes to the Code of Ethics?
- D. New Changes for 2016....be ahead of the game

IV. Education is the Key – Application of the Code to every day situations

- A. Case Study – Gaining Access to the Property
Standard of Practice 1-16 REALTORS® shall not access or use, or permit or enable others to access or use, listed or managed property on terms or conditions other than those authorized by the owner or seller. (Adopted 1/12)

Standard of Practice 3-9REALTORS® shall not provide access to listed property on terms other than those established by the owner or the listing broker. (Adopted 1/10)

(The Case Study will be read by “actors” who will volunteer from the audience)

- 1) Has the complainant charged the appropriate Article?
- 2) Can Respondent Bill be found in violation of both the COE and the MLS rule for giving his lock box key to the buyers?
- 3) What is the current MLS fine for providing access to a listed property?
- 4) If Bill is found in violation of the MLS rule administratively by some subset of the MLS committee, can he request a hearing and subsequently appeal that hearing panel’s findings?
- 5) If Bill requests a hearing concerning the MLS’s concerning the MLS’s decision that he was in violation, what body would hold that hearing?

Let’S here the rest of the story

- 1) Has the complainant charged the appropriate Article?
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- B. Quadrennial Training is gone...and now going to be every 2 years
- C. Application is the key...

V. Today’s Issues with the Code in the every day real estate business

A. Article 3REALTORS® shall cooperate with other brokers except when cooperation is not in the client’s best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. (Amended 1/95)

Standard of Practice 3-10The duty to cooperate established in Article 3 relates to the obligation to share information on listed property, and to make property available to other brokers for showing to prospective purchasers/tenants when it is in the best interests of sellers/landlords. (Adopted 1/11)

Your thoughts on COMING SOON!

- B. Today’s Best practices to implement
 - SOP 2-1**
 - Article 5**
 - Article 9**

SOP 11-3
SOP 16-3
SOP 16-5
SOP 16-13
SOP 16-16

C. Standard of Practice 12-5 REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, ® etc.) without disclosing the name of that REALTOR's firm in a reasonable and readily apparent manner. *This Standard of Practice acknowledges that disclosing the name of the firm may not be practical in electronic displays of limited information (e.g. "thumbnails", text messages, "tweets", etc.). Such displays are exempt from the disclosure requirement established in this Standard of Practice but only when linked to a display that includes all required disclosures. (Amended 1/11)*

D. Examples of Bad Article 12 Behavior.

1. Who sold what?
2. How do the zillow's of the world affect this?
3. The important part of this is 'Where are your listings? How did they get there? Are they current?'
4. Whose picture is that?

VI. What is the "Root" of the Problem?

- A. 1500-2000 complaints per year
- B. 50 % had no violation of license law
35% had minor infractions
15% were substantial in nature
"People shoot first and ask questions later"

VII. True ethics means acting within the ethical boundaries...

Because that's the way you live your life, not just because you are afraid of being caught.

Professional Standards Ice Breaker and Trivia Game

1. Which two concepts in the 1913 Code of Ethics remain in the Code today?
 - a. avoid the unauthorized practice of law; provide competent service
 - b. cooperate with other REALTORS[®]; arbitrate disputes
 - c. compensate cooperating brokers; submit offers and counter-offers objectively and as quickly as possible
 - d. All of the above
2. The National Association was ahead of federal fair housing and employment law in 2010 when it amended Article 10 of the Code to include sexual orientation as a protected class.
 - a. True
 - b. False
3. When the Code of Ethics was modified to incorporate gender neutral phrasing, 52% of REALTORS[®] were women. The year was:
 - a. 1923
 - b. 1972
 - c. 1989
 - d. 2006
4. The Code of Ethics has been amended approximately how many times?
 - a. 20
 - b. 40
 - c. 60
 - d. 80
5. Because REALTORS[®] have a duty to protect and promote the interests of their client, REALTORS[®] are obligated to reduce a previously agreed to commission if asked to do so by a client.
 - a. False.
 - b. True. REALTORS[®], within reason, must do all within their power to protect and promote the interests of their client.
 - c. Whether a REALTOR[®] would be obligated to reduce a previously agreed to commission would depend on all the facts and circumstances in a particular case.
6. Information on an exclusively listed property is disseminated via the MLS but, at the seller's direction, no showings are allowed for two weeks.
 - a. a REALTOR[®] may not advertise the property in any medium until it is available to be shown.
 - b. a REALTOR[®] cannot follow the seller's directions; the listing broker must make the property available for showing when the listing is executed.
 - c. the MLS could, as a matter of local determination, decide not to include properties in the MLS when those properties cannot be shown by other participants.
7. Article 15 states that "REALTORS[®] shall not knowingly or recklessly make false or misleading statements about other real estate professionals...." Who are "other real estate professionals"?
 - a. full time real estate brokers and salespeople
 - b. appraisers, builders and part time real estate brokers/salespeople
 - c. home inspectors, mortgage lenders and contractors
 - d. A. and B.
 - e. All of the above
8. REALTOR[®] A represented a seller/client exclusively. Property did not sell during the listing agreement and the seller did not renew the listing agreement with REALTOR[®] A. REALTOR[®] A knew the seller was in financial distress. When the seller filed for bankruptcy, REALTOR[®] A was still upset the seller did not renew the listing with him so he informed the seller's employer, a lender, that the seller had filed for bankruptcy.
 - a. REALTOR[®] A may be found in violation of Article 1 given Standard of Practice 1-9. He may not reveal confidential information even after the termination of a professional relationship.
 - b. It may be a misapplication of the Code of Ethics to find REALTOR[®] A in violation of Article 1 as interpreted by Standard of Practice 1-9.
 - c. Bankruptcy is not considered confidential as it is public information unless otherwise provided for in law.
 - d. Both B. and C.
9. Beginning in 2014, a local board can assess a respondent found in violation of the Code of Ethics with a \$15,000 fine.
 - a. True, so long as the complaint is filed in 2014.
 - b. True, so long as the bad act complained about occurred in 2014.
 - c. False, the maximum fine for violating the Code of Ethics in 2014 will remain at \$5,000. A \$15,000 fine may only be assessed if a violation of the MLS rules is found.
10. There is no reference to psychological stigma in this particular state's statutes or the regulatory body's rules and regulations. However, the state's superior court clarified in a recent decision that psychological stigma are **not** subject to mandatory disclosure rules.
 - a. Standard of Practice 2-5 provides that factors defined as "non-material" by law or regulation as not being subject to disclosure are not considered pertinent for purposes of Article 2. The superior court's decision, though, isn't a law or regulation so REALTORS[®] may still be bound to disclose that a murder recently occurred in a property.
 - b. Regardless of what the law states, REALTORS[®] must disclose all facts that would impact a reasonable person's decision to purchase the property, resell the property, or impact the price a purchaser would pay for the property.
 - c. Controlling case law would be considered "law" for purposes of the Code. REALTORS[®] would not be bound to disclose that a recent murder occurred in a property in this state given the superior court's decision. However, discuss disclosure with the sellers because the event is likely not to be kept private.
11. A national moving company is offering real estate licensees \$40 for every individual the licensee refers to the company who ultimately employs the company to move belongings into or out of residential or commercial properties.
 - a. It is not necessary to disclose the fee a REALTOR[®] will receive as a direct result of the REALTOR[®]'s recommendation to the client or customer. "Moving services" are not real-estate related services as defined by Article 6.
 - b. A REALTOR[®] should disclose the fee he will receive as a direct result of recommending the moving company to his client or customer.