

Jackie Leavenworth "Legal Lifesavers"

Iceberg #1: Agency: What's under the surface?

Duties owed to clients

Discussion point:

Another agent in your office is holding your listing open. When she arrives the seller says:

"I hope you sell this place today, I can't believe the buyer walked on our \$218 offer last month!"

Discuss the potential problems with this scenario

Agency Best Practices

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Iceberg #2: Dual Agency: "What do you mean, I can't say that?"

Discussion point:

You sold your own listing to your buyer "client," you are a dual agent. You receive a call from the appraiser telling you that the home appraised for \$10,000 less than the purchase price (you know he's wrong). Should you supply comps to the appraiser to prove the price was right?

Answer the buyer's questions to you as a disclosed dual agent:

Don't you think this is overpriced?	What do you think it's worth?
Why is the seller moving?	What will they take?
Have they had any offers?	Have they bought another house?

Dual Agency Best Practices

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Iceberg #3: Misrepresentation: "That's not what I meant (or said)"

Discussion point:

The seller has a structural survey and receives a written report revealing severe structural problems on the south wall. The seller refuses to disclose the "written report" to future buyers, but is willing to make a written disclosure in her own words.

Discussion point:

Lucy lists Bill's home; it's a real dog! Bill knows there's a problem with the basement walls and the roof as well as a myriad of other issues. Bill & Lucy decide that selling the home "as is" would be a wise move.

Discuss the do's and don'ts regarding this issue.

Misrepresentation Best Practices

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Iceberg #4: Negotiations: "My client has accepted"

Discussion point:

Louise, the listing agent, relayed two verbal counteroffers to the buyer's agent; the buyer didn't like either option and walked away. About three months later the seller sold the home to another buyer for \$20,000 less and then sued the broker and agents for negligence.

Discuss the potential outcomes of this situation

Iceberg #5: Earnest Money: "The contract says what?"

Discussion point:

Discussion point:

Mary writes an offer for Bud, the buyer. Bud gives Mary a note for \$10,000 earnest money to be redeemed within four days of acceptance. On day eight, Bud decides to back out of the deal. Seller agrees to release the buyer, but wants to keep the \$10,000. Bud never redeemed the note.

Discussion point:

Jill sells a home to her buyer, client Rob on 1/4/14. The purchase agreement contains a contingency for a survey because of an out-building that Rob thinks is encroaching on the property. The survey is done on 1/6/14 and sure enough, the building is an encroachment. Rob no longer wants the property, so Jill simply gives him back his \$20,000 earnest money check because it had not yet been deposited.

Negotiation / Earnest Money Best Practices