

REAL ESTATE KARMA

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Is it

Just plain Rude?

Unethical?

Illegal?

2

WWYD?

The hubs and I have been on the hunt for a new house for a while now. We were super excited when our agent told us that a brand new (just built!) house was available in a neighborhood we love! Hilary (our agent) warned us in advance of our showing that an agent for the builder would be there- she didn't warn us about what he might say when we got there...

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The agent for the builder begins by introducing himself (his name is Frank) to my husband and shaking his hand (gross, it's a pandemic)

Frank then looks at me and says "Wait until you see the his and hers closets in the master bedroom, you're gonna have all the space you need for your shoes" he then looks at the hubs and says "And she'll like the kitchen for when she's not wearing those shoes"

Frank then shoots Hilary a look and says "The men will go out back and check out the shop and we'll let you ladies peruse your domain"

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Is it

A) Just plain Rude?

B) Unethical?

C) Illegal?

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Just Plain Rude?

- **The Pathways to Professionalism, Respect for Peers**

6. Show courtesy, trust, and respect to other real estate professionals.

7. Avoid the inappropriate use of endearments or other denigrating language.

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Unethical?

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (amended 1/14)

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Standard of practice 10-5

REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (Adopted and effective November 13, 2020)

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NAR
Definitions
Merriam
Webster's
Dictionary

- Hate Speech: "speech that is intended to insult, offend, or intimidate a person because of some trait."
- Epithet: "1a: a characterizing word of phrase accompanying or occurring in place of the name of a person or thing; b: a disparaging or abusive word or phrase."
- Slur: "1a: an insulting or disparaging remark or innuendo: ASPERSION; b: a shaming or degrading effect: STAIN, STIGMA"

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Illegal?

- The Housing and Community Development Act of 1974 added Sex as a basis upon which a complaint of discrimination may be made.

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2012 “Equal access to housing in HUD programs regardless of sexual orientation or gender identity”

- Summary

Through this final rule, HUD implements policy to ensure that its core programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. *This rule follows a January 24, 2011, proposed rule, which noted evidence suggesting that lesbian, gay, bisexual, and transgender individuals and families are being arbitrarily excluded from housing opportunities in the private sector.*

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Applies to all HUD assisted or FHA insured mortgages

Sexual orientation

Gender identity

Marital status

Non-conformance with sexual stereotypes

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Sexual or Gender Stereotyping

Prescriptive Stereotyping

- Don't act like this.

Proscriptive Stereotyping

- You should act like this.

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1/20/21 Executive order
issued by President
Biden

“PREVENTING AND
COMBATING
DISCRIMINATION ON
THE BASIS OF GENDER
IDENTITY OR SEXUAL
ORIENTATION”

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WWYD?

- Did the behavior of Frank (the agent for the builder) create a hostile environment constituting sexual harassment under the Fair Housing Act?

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Has it happened to you?

- Has the behavior of another agent made you feel uncomfortable?
- Have you heard comments made by another agent that when you “look back” you feel were inappropriate?
- How can our future behavior create a more inclusive environment for all?

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WHO LET THE DOGS OUT?

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WWYD?

Just got a call from my seller (who is severely allergic to dogs) that the folks who just walked through his house for a showing had a dog with them. He has doorbell camera video of them on the front porch with their dog and his allergies are on 'high alert' and he's really angry that I didn't somehow stop this.

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Pathways to Professionalism: Respect for Property

7. Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities or bring pets. Leave the house as you found it unless instructed otherwise.

20

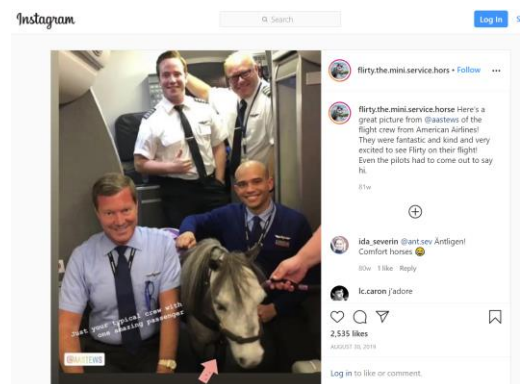


WHAT ABOUT MY SELLER? CAN WE BAN DANDER FACTORIES?

21

AMERICANS WITH DISABILITIES ACT

- Defines service animals as dogs with specific training to provide assistance to a disabled person, with a few exceptions a trained miniature horses.
- **TRAINING!!**



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Air carrier access act

- Service animals (ADA)
- Psychiatric service animal (require the same training as Service Animals under ADA 1/22/20 proposal)

Woman denied peacock as emotional support animal



United Airlines shot down one traveler's request to bring her emotional support peacock on a flight departing Newark Liberty International Airport in January.

[Live and Let Fly](#) reported that even though the unidentified woman claimed that she had a second ticket for the peacock, the airline denied her request.

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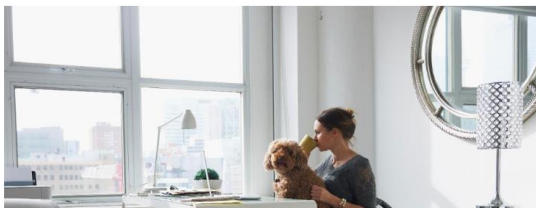
EDITORS' PICK | 2,767 views | Jan 28, 2020, 06:50pm

HUD Issues New Guidance On Reasonable Accommodations For Assistance Animals



Brenda Richardson Senior Contributor @ Real Estate
I cover residential real estate, including buying, selling and trends.

f
t
in



JANUARY
28, 2020

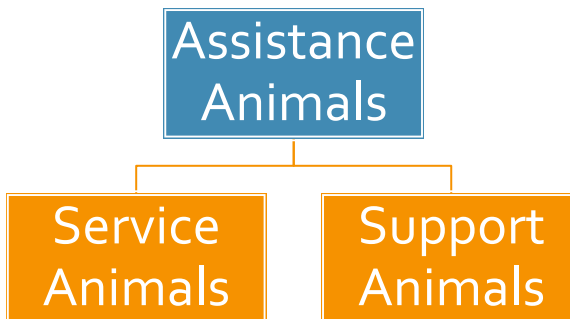
24

FHEO 2020-01

HUD is providing this guidance to help housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits. The guidance may also help persons with a disability who request a reasonable accommodation to use an assistance animal in housing.

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FHEO-2020-01

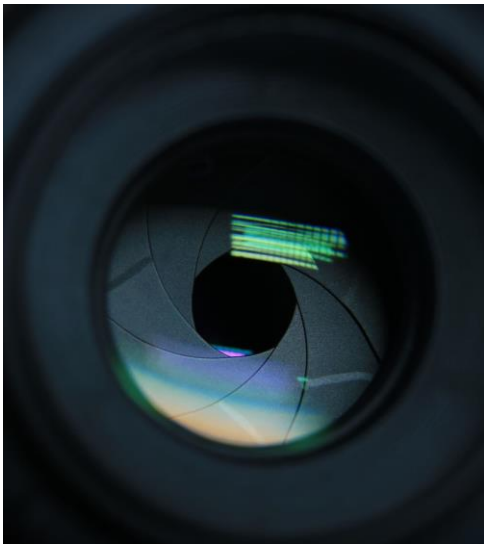


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Hmmmm... but what's the answer?

- **Service Animals**
- **Support Animals**

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**ARE YOU
READY FOR
YOUR
CLOSE UP?**

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Nerdwallet Survey

- **15 percent of Americans who've sold a home said they've used their security systems to monitor potential buyers.**
- **67 percent say that if they were selling a home and had such devices, they'd switch them on when buyers come calling.**

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It's not just sellers watching...

"While we were doing the brokers' open house, an agent took out her cellphone and took a picture of the master bedroom. As I was watching, a text came in that read, 'Please, no pictures in the master bedroom.'"

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Is it

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Just Plain Rude? Pathways to Professionalism

Respect for Peers

5. Share important information about a property, including the presence of pets, security systems, and whether sellers will be present during the showing.

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Illegal? Audio recordings

- **State-by-state requirements on authorization.**
- **“One consent” states: One party to the recording must consent.**
- **“All Consent” states: All parties to the recording must consent.**

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New York

New York v. Kirsh, 575 N.Y.S.2d 306 (N.Y.App Div. 1991)

- **New York is considered a “one-party” consent state. Where one-party to the conversation must consent to the recording. However, New York law does make an exception in cases where the person or people communicating are doing so in an environment where they should not be under the expectation of privacy.**

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New Jersey

N.J. Stat. Ann. §2A:156A-2

- New Jersey is considered a “one-party” consent state. However, New Jersey law does make an exception in cases of oral conversations where the person or people communicating are doing so in an environment where they should not be under the expectation of privacy, not including any electronic communication.

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Pennsylvania

18 P.A. Cons. Stat. Ann. §5704 (West 2012)

- Pennsylvania recording law stipulates that it is a two-party consent state. In Pennsylvania, it is a criminal offense to use any device to record communications, whether they're wire, oral or electronic, without the consent of everyone taking part in the conversation. This means that in Pennsylvania you are not legally allowed to record a conversation you are taking part in unless all parties are in agreement. However, Pennsylvania law does make an exception in cases where the person or people communicating are doing so in an environment where they should not be under the expectation of privacy.

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Audio recordings

“One Consent” is a misnomer at a real estate private showing or open house where the conversation is being recorded.

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Illegal? Video Recordings

- ***Expectation of Privacy***

38

New York

- **New York allows the installation of video surveillance systems for security purposes as long as the owner of the security system posts a conspicuous notice stating that a video surveillance system has been installed for security purposes. Also, the installation of such a system is legal if the system has been installed in a way that makes the visibility of the security system clearly and immediately obvious.**

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New Jersey

N.J. Stat. Ann. §2C:14-9

- **It is a crime for a person to photograph, film, videotape, record, or otherwise reproduce in any way the image of another person's intimate parts or sexual acts without that person's consent and in circumstances where a reasonable person would not expect to be observed. For example, filming a person using a public restroom is illegal because a restroom is an area where there is a reasonable expectation of privacy and where people may expose their intimate parts.**
- **Note that it is not illegal for retail establishments to observe, photograph, film, videotape, record or otherwise reproduce the image of persons in the access way, foyer or entrance to a fitting room or dressing room provided that the establishment posts a conspicuous notice at the entrance of such rooms informing the public of the surveillance activity.**

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Pennsylvania

18 Pa. Cons. Stat. Ann. §7507.1(a)

- It is considered an offense of invasion of privacy, for sexual gratification purposes to:
 - View, photograph, videotape, electronically depict, film or otherwise record another person who is in a state of full or partial nudity while that person is in a place there is reasonable expectation of privacy, without that person's knowledge and consent.
 - Photograph, videotape, electronically depict, film or otherwise record or personally view the intimate parts of another person, regardless of whether they are covered by clothing or not, without that person's consent and knowledge, when that person does not intend such intimate parts to be visible by normal public observation.
 - Disseminate images obtained in violation of the laws mentioned above by live or recorded telephone message, electronic mail, Internet or by any other transfer of the medium on which the image is stored.
 - For example, filming a person in a changing room is illegal because such a room is a place where there is a reasonable expectation of privacy and people may be in a state of full or partial nudity when inside.

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Invasive visual recording cases

- A man was convicted (upheld on appeal) of videotaping his girlfriend's daughter taking a shower without her knowledge or consent;
- A man was convicted (upheld on appeal) of using his smartphone to take up-skirt photos or videos of a woman shopping at a Kroger supermarket; and
- A man convicted (upheld on appeal) of using a spy camera attached to a Z-cart in a Goodwill Dressing Room, videotaping both women and girls (minors), making him also liable for violation of child pornography laws.

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SHARE
TWEET
EMAIL

Man charged with fil
New Jersey Wegma

News

Camera shoe explodes, injuring man
who planned to take 'upskirt' photos of
women

share

Save

A 32-year-old man reported himself to police in Wisconsin after his "shoe camera" exploded (file photograph) CREDIT: GETTY IMAGES

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Seller client audio records potential buyers at a showing.

- Did the seller notify the buyers they would be recorded?
- Did the seller notify you of the recording?
- Was information that was revealed by the potential buyer during the showing used to give the seller an advantage in the transaction?

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What can go wrong?

Client doesn't give notice of audio recording of a showing or open house.

Worst Case: Criminal prosecution.

More Likely: Private action, FTC deceptive trade practice claim if the information gathered through the recording was used in negotiations to harm the party who was recorded.

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Best practices

- **Seller's Agents: Do not bury head in sand if you aware of recording, need to notify.**
- **Buyer's Agents: Regardless of if notification has been received, need to inform clients of potential for recording and coach client to behave accordingly.**

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If you
need a
new App

- Hidden Camera Detector \$3.99 a month
- Spy Hidden Camera Detector \$3.99 a month
- Hidden Spy Camera \$2.99 a month

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Tech Guru
32.5K subscribers

Top 3 Hidden Camera Detector

- 1 . Spy Hawk Law-Grade Surveillance - <https://amzn.to/2zSAuox>
- 2 . Mini Gadgets Lawmate CDLM10 - <https://amzn.to/2zQH7HN>
- 3 . Pannovo Anti-spy GSM - <https://amzn.to/2A0LekP>

If you need a new gadget

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WHAT HAPPENS IN ATLANTIC CITY STAYS ON FACEBOOK...

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*Worst transaction ever! I represented the most adorable buyers who had their s@#t together, pre-approved, good jobs, and with a reasonable list of "must haves." Unfortunately they fell in love with a house listed by Larry Driver, the agent-from-H***.*

The 6 blurry pictures in the MLS somehow got us in the front door- the agent failed to disclose that there was a tenant in the property and we got quite an a@@@ chewing for waking him up from his booze nap. When I called the sellers rep to inform him of our experience, he didn't have the courtesy to answer or return my call. I submitted an offer on behalf of my client that was reasonable and the jerk sent back a form letter informing me that offers weren't being accepted- what the heck kind of agent doesn't accept offers? Isn't it his job to accept offers? Went through some ridiculous submission process and then negotiations were a nightmare! I felt like a stalker trying to get this jerk to return my calls! I rose above the incompetency and finally got to closing because that's what a #girlboss does.

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Dear Girl Boss:

Thank you for "rising above" and working so hard for your clients. I feel a few clarifications are needed:

- 1) When you originally showed the property to your clients, the listing was on "Do Not Show" while we waiting for the tenant to finish her medical residency. That was not a booze nap, that was sleeping after 24 hours in the ER saving lives.
- 2) You called to complain at 7:00 p.m. on a Friday evening. I respect the Sabbath and do not work on that day. I had already heard from the tenant about your unexpected appearance earlier in the day and I did contact you and your broker when I returned to the office.
- 3) The listing in the MLS clarified the "offer process" that my clients chose to implement. Offers were to be submitted to a "blind e-mail address" with a deadline for submission before review directly by my clients.
- 4) Negotiations were indeed a complicated process, I'm sure you can agree that negotiating for the sale of personal property during the negotiations for real property can bog down the process. I hope your buyer is enjoying the VW Jetta that was purchased during negotiations.
- 5) Calling someone in excess of 20 times during a one hour period does lead to "feeling like a stalker." Might I suggest that you re-read the e-mail I sent to you at the beginning of the transaction where I explained that I (along with my clients) do not work during the Sabbath.

Respectfully submitted

Larry Driver, The Agent From The Bad Place

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Is it

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Illegal?

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Rude? Pathways to Professionalism

Respect for Peers

11. To be successful in the business, mutual respect is essential.
12. Real estate is a reputation business. What you do today may effect your reputation- and business- for years to come.

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Unethical? NAR Code of Ethics Article 15

“REALTORS[®] shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices.” (Amended 1/12)

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Illegal? Can we litigate?

General defamation requirements:

- A false statement purporting to be fact;
- Publication or communication of that statement to a third person;
- Fault amounting to at least negligence; and
- Damages, or some harm caused to the person or entity who is the subject of the statement.

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Social Media
Posting?

Commenting
on articles?

On-Line
Anti-Trust

56

Making the Next Play: With Instant Offers, Zillow to Begin Buying and Selling

By Suzanne De Vita

...situation for anyone. Buyers lose, Sellers with be disappointed and the Agents will get to say, I told you so. Everyone thinks being a Realtor is easy, Surprize it is not and for Zillow to take this as if it just a paper event is totally wrong.

Like · Reply · Mark as spam · 2 · 7w

This is what I say. NAR should take total control of this situation and prohibit Realtors from working with Zillow or any other company that is trying to take over our profession. NAR should draw the line and stop this.

Like · Reply · Mark as spam · 2 · 7w

Hit NO when it ask you to syndicate your listing. You should have buyers and startegies to sell it on your own, with your own sphere of influence like past clients, co workers from your office etc. After about 2 weeks, maybe then, put it out there for the world to see. In my MLS, at the very

57

Let's set our Associations & MLSs on a path of simple uniform requirements for proper syndication of agent's works & copyrights.

Main Office: 484-451-5151

Like · Reply · Mark as spam · 1 · 7w

Halm Springs, California

How dirty and low can Slimy Zillow go, use our MLS listings to make manoy off us, and the the nerve to compete against is, and the dogs taking the scrapes Coldwell Brekshire, Lawsuit ! and Boycott ! Zillow.

Like · Reply · Mark as spam · 1 · 7w

Luis Toro
Hit NO when it ask you to syndicate your listing. You should have buyers and startegies to sell it on your own, with your own sphere of influence like past clients, co workers from your office etc. After about 2 weeks, maybe then, put it out there for the world to see. In my MLS, at the very end, after we input everything and are just about ready to LIST it, the last quest is if we want to keep it to

We agents pay our MLS fees and our brokers list our properties and then the MLS takes our hard earned listings, feed to Zillow who is supported, by again, agents money as agents pay huge sums to advertise with them. Agents are getting totally ripped of by both of them. Both of them use our information and hard work to make money. MLS and Brokers need to stop the feed and stop Zillow!!!

More

Our Association needs to do something now!

2 mos Like Reply More

Chip Ahiswede
Neither the association nor the mls can decide to not feed to any one company. For an organization to do so would violate U.S. anti trust laws. Individual agents or brokers however are free to do wha... it.

More

I don't agree

2 mos Like Reply More

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The Sherman Act

“Every contract combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among several states, or with foreign nations, is declared to be illegal.”

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Here we go again...

OMG! Worst day ever! Had to negotiate a contract with Phillip Driver- he is such a loser! If he was a decent real estate agent at all he wouldn't be discounting his rates and making me do all the work! I will never ever in a million years show another one of his listings again!



Oh sweetie! So sorry you had to talk to that jerk- we should all refuse to show his listings and then he wouldn't be able to stay in business! Re-post if you won't work with that loser Phillip Driver!

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COMMUNICATION CONDUNDRUM

The balance between silence and stalking

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WWYD?

I submitted an offer on behalf of my clients to Agent X at 4:45 p.m. yesterday. When I hadn't heard from him by 5:15, I called to make sure he had gotten my e-mail with the offer. He didn't answer, so I left a voice mail and then texted him to make sure he would 1) listen to my voice mail and 2) check his e-mails. He didn't text back, so I went to social media and saw that he had posted a pic of himself at a concert so I guess that explains why he didn't respond right away- but if you can post on insta, you can reply to a text. It's now 9:15 and I have had two cups of coffee, but haven't heard a peep out of Agent X. Is it time to call his broker? Time to call his parents? Time to call the police? Time to file a complaint with the board?

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Rude? (Which agent?) Pathways to Professionalism

Respect for Peers

2. Respond to other agents' calls, faxes, and e-mails promptly and courteously.

65

2. Respond to other agents' calls, faxes, and e-mails promptly and courteously.

- What is "Promptly"?
- A) Less than 12 Hours
- B) Less than 24 Hours
- C) Within 2 days

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Unethical?

Code of Ethics, Standard of Practice 1-7

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. Upon the written request of a cooperating broker who submits an offer to the listing broker, the listing broker shall provide, as soon as practical, a written affirmation to the cooperating broker stating that the offer has been submitted to the seller/landlord, or a written notification that the seller/landlord has waived the obligation to have the offer presented.

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Standard of Practice 1-15

REALTORS® in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker.

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How have you handled this?

- ❖ **Have you had an overly aggressive agent contact you?**
- ❖ **Have you had an agent fail to respond to you after you've contacted them?**