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## **Here's what your real estate agent may not tell you about ethics**

By Jill Chodorov



What happens if you purchase a home and then learn from the neighbors that the house had a prior fire? Did the listing agent and seller know about it and fail to disclose the information to you? Should they have disclosed that information to you?

Have you ever received a call from an agent saying that they have an offer for you, only to learn that it was a sales tactic to solicit a listing?

If you have sold a home, do you really know how many offers were submitted to your listing agent? What if one of those offers came from your own agent's buyer? The listing agent is required to present all offers to you, but that may not always happen. It is certainly in the agent's best interest to present only their own offer and earn both sides of the commission.

For the majority of Americans, buying or selling a home is the most expensive transaction of a lifetime. It requires considerable trust in the real estate professionals who guide you through a formidable process. With the end-of-year deadline looming for all members of the National Association of Realtors (NAR) to complete a required ethics course, it is timely to review trust and ethics in the real estate industry and what it means for you, the consumer.

NAR members are required to complete an ethics class every four years to maintain membership. Despite the required training, we don't always get it right — intentionally or unintentionally.

Real estate agents are paid a commission. And we only get paid when we sell a property. Thus, it can justifiably be assumed that we will work in our own best interest. This is probably why some equate real estate agents to the loathsome used-car salesmen (no offense to used-car salesmen).

The majority of us walk a fine line every day, weighing our actions to make sure we are adhering to our required ethics standards while trying to make a living.

The Greater Baltimore Board of Realtors, when it was founded in 1858, incorporated rules of conduct into its bylaws that discouraged members from stealing one another's listings. Those rules are considered to be the industry's first formal ethics rules.

Today, NAR's Code of Ethics and Standards of Practice is broken down into three parts. The first section deals with our duties to clients and customers, the second outlines our duties to the public, and the last section covers our duties to other Realtors.

"It is a very simple road map, very easy to follow and to do," said Dana Hollish Hill, an associate broker with Keller Williams Capital Properties in the Capitol Hill office and an ethics instructor for the Greater Capital Area Association of Realtors (GCAAR), which represents agents in Maryland and the District.

"I started teaching the [ethics] class because I found that people assume the worst of Realtors so I would always quote the code," Hollish Hill added.

The code cannot address every possible real estate situation, though. That's where we must rely on our own ability to think things through and make sound ethical decisions.

"Some of the same questions come up every time I teach a class," Hollish Hill said. Classes regularly digress into long debates over the right and wrong way to handle a particular situation. For example, a regular topic of discussion is how to handle disclosures when a transaction falls apart due to an issue with the home inspection.

"If the seller makes the repair, should that issue be disclosed to the next buyer, even though it has been repaired," Hollish Hill asked rhetorically.

But if agents regularly disagree on how to handle situations that arise — situations that may not directly be addressed in the code — how do we know which is the most ethical direction to go?

Frank Craven, the first chairman of NAR's committee on ethics in 1911, stated: "We cannot suggest a better starting point than the Golden Rule, 'Do unto others as ye would that others should do unto you.'" Craven also pointed out: "The real estate broker is depended upon by his client possibly more than any other profession or trade. The average individual buys possibly one or two properties in a lifetime. He comes to you for information and advice."

"Personally, I see code violations all too frequently in my own business," said Cindy Moses, associate broker of Keller Williams Flagship in Potomac, Md., and a former member of the Grievance and Professional Standards committee of GCAAR. "Things like contacting another Realtor's client [to steal the client], mishandling paperwork and failure to communicate material facts are common problems."

Moses said that most ethics violations are a result of ignorance of the Code of Ethics, lack of broker supervision, lack of training or just pure self-interest.

"That said, I believe that most Realtors behave in an ethical manner," Moses added.

What is the best way for real estate agents to avoid facing an ethics complaint?

“The best agents are those that are good at communicating,” Hollis Hill said.

Jill Landsman, spokeswoman for the Northern Virginia Association of Realtors (NVAR), said year-to-date the organization as of the end of October has received 86 ethics violation complaints out of 17,997 transactions.

“NVAR dedicates significant resources to the enforcement of the code of ethics,” Landsman said in an email. “We offer an online complaint platform and a variety of enforcement measures including expedited proceedings.”

Some of the key guidelines in the Code of Ethics include:

- Protect and promote the interests of our client first.
- Treat all parties to the transaction honestly and fairly.
- Do not deliberately mislead a seller on market value to secure a listing.
- Never reveal confidential information of our clients to another party (latent material defects of the property not included).
- Never use confidential information of our clients for our own benefit.
- Do not accept any commission, rebate or profit on expenditures made by the client, without the client’s consent.
- Never commingle personal funds with the client’s funds.
- Never discuss the racial, ethnic or religious composition of a neighborhood.
- Never discriminate based upon race, color, religion, sex, handicap, familial status, national origin, sexual orientation or gender identity, and any other additional classes required by local or federal laws.
- Cooperate with other brokers if it is in the best interest of the client.

Real estate agents are not required to disclose the ethics policies to their clients, so it may be difficult to know whether your agent is behaving unethically. The entire Code of Ethics can be found here:

<https://www.nar.realtor/about-nar/governing-documents/the-code-of-ethics#DutiestoCandC>.

Real estate agents and the public at large can file a complaint with the National Association of Realtors or with the local Association of Realtors when one believes an ethics violation has occurred. A wide variety of sanctions may be imposed for ethics violations, which range from a simple letter of warning to fines to expulsion from NAR membership and loss of licensure. It is important to know that not all real estate agents are members of NAR and, thus, do not have to take the ethics class. However, most local real estate associations require or offer ethics training.

State real estate commissions can use their state guarantee fund to help make aggrieved parties whole financially, impose fines and/or jail time, and suspend or revoke a license.

While the percentage of ethics complaints against Realtors is low in relation to the deals that are done, it's good for consumers to know they have recourse if they encounter a problem and that the real estate industry takes them seriously.