

EXPECTED COMETENCE

The National Association of Realtors has created many “case studies” to help us better interpret the Code of Ethics. What follows is one which I think you will find interesting.

REALTOR A showed his new \$500,000 listing to Buyer B. In discussion, the buyer observed that some kind of construction was beginning on property located nearby. He asked REALTOR A what it was. “I really don’t know.” Said REALTOR A, “but I believe it’s the attractive new shopping center that has been planned for this area.” Following the purchase, Buyer B learned that the new construction was to be a bottling plant and that the adjacent area was zoned industrial.

Charging that the proximity of the bottling plant would have caused him to reject purchasing the home, Buyer B filed an Ethics complaint charging REALTOR A with a violation of Article 2, which states in part: REALTORS shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction.”

During the hearing, REALTOR A stated he had given an honest answer to Buyer B’s question. At the time he had no positive knowledge about the new construction. He knew that other developers were planning an extensive shopping center in the general area and had simply ventured a guess. He pointed out, as indicated in Buyer B’s testimony, that he had prefaced his response by saying he didn’t know the answer to Buyer B’s question.

The Ethics Panel did not find REALTOR A’s defense adequate. REALTOR A was found guilty of a violation of Article 2. The panel found that REALTOR A’s expected competence required him to know the answer to a question related to a pertinent fact, or if he didn’t know the answer, he shouldn’t have ventured a guess but should have made a commitment to get the answer.

Any material fact that could affect a reasonable purchaser’s decision to purchase, or the price that a purchaser might pay, should be disclosed. The question that hearing panels should consider in determining whether a REALTOR has exaggerated, misrepresented, or concealed a pertinent fact is whether disclosure of the fact in question could have had an effect on a reasonable purchaser’s decision.

If you have any ethical questions you can contact Steve at stazels@msn.com

