



TRAINING TIP OF THE WEEK

Exaggeration in Advertising

In his efforts to sell a furnished apartment building, REALTOR® A, the listing broker, used advertising describing the property, including such phrases as “modern updates . . . most units have new appliances . . . excellent earnings record.” Buyer B saw the ad, called REALTOR® A, was shown three nicely appointed units on the property, signed an offer to buy, and wrote a check for a deposit. A few days later, he made a more careful inspection of the property and its earnings statements, and filed a complaint against REALTOR® A with the Association of REALTORS® charging misleading and exaggerated advertising.

At the hearing, Buyer B explained that he had been looking for just such an investment property in the general location, that the price appealed to him, and that he had only a very limited time available on the day he was shown the property. The three apartments which he was shown were in excellent condition, so he had thought it advisable to make an offer, feeling that he could place full reliance on REALTOR® A’s representation of the property both in his oral statements and his advertising.

His second, and more thorough, inspection revealed that the three apartments shown to him were the only apartments in the building that were updated; the other nine were badly in need of renovation. Moreover, he said, the earnings record of the building, which by ordinary standards was satisfactory for the two years immediately preceding, had shown high vacancy and a loss in two of the ten years of the building’s life, had shown a definitely low return in three years, and had never shown an earnings record that could be described as “excellent”.

Responding to Buyer B’s specifics, REALTOR® A pointed out that the complaint did not charge him with misrepresenting anything in his oral statements to Buyer B; that the complaint, therefore, was based solely on his advertisement which he felt did not depart from accepted standards in advertising. Since the building was about ten years old, he felt free to say that all of its units were “modern”, and that when he stated “most units have new appliances,” he based that, too, on the fact that the building was about ten years old. Finally, in his opinion, the earnings record of the building for its entire operating life, since it had shown a loss in only two of its ten years, could reasonably be described as “excellent”.

Is Realtor® A’s defense valid?

Questioning of REALTOR® A revealed that the three apartments shown to Buyer B were, in fact, the only renovated units in the building, and that these three were the only apartments in which the original appliances had been replaced. REALTOR® A’s comment on this was, “Naturally, in showing the building, I directed attention to the most attractive features. This is just ordinary competence in selling.”

Is Realtor® A in violation of Article 12?

It was the conclusion of the Hearing Panel that REALTOR® A’s advertising used exaggeration and had not presented a true picture in his representations to the buyer. REALTOR® A was found in violation of Article 12.

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