



TRAINING TIP OF THE WEEK

OBLIGATION TO ASCERTAIN PERTINENT FACTS ARTICLE 2 - REALTOR® CODE OF ETHICS

CASE STUDY:

Shortly after REALTOR® A, the listing broker, closed the sale of a home to Buyer B, a complaint was received by the Board charging REALTOR® A with an alleged violation of Article 2 in that he had failed to disclose a substantial fact concerning the property. The charge indicated that the house was not connected to the city sanitary sewage system, but rather had a septic tank.

In a statement to the Board's Grievance Committee, Buyer B stated that the subject was not discussed during his various conversations with REALTOR® A about the house. However, he pointed out that his own independent inquiries had revealed that the street on which the house was located was "sewered" and he naturally assumed the house was connected. He had since determined that every other house on the street for several blocks in both directions was connected. He stated that REALTOR® A, in not having disclosed this exceptional situation, had failed to disclose a pertinent fact.

REALTOR® A's defense in a hearing before a Hearing Panel of the Professional Standards Committee was:

1. that he did not know this particular house was not connected with the sewer;
2. that in advertising the house, he had not represented it as being connected;
3. that at no time, as Buyer B conceded, had he orally stated that the house was connected;
4. that it was common knowledge that most, if not all, of the houses in the area were connected to the sewer; and
5. that the seller, in response to REALTOR® A's questions at the time the listing was entered into, had stated that the house was connected to the sewer.

The panel determined that the absence of a sewer connection in an area where other houses were connected was a substantial and pertinent fact in the transaction; but that the fact that the house was not connected to the sewer was not possible to determine in the course of a visual inspection and, further, that REALTOR® A had made appropriate inquiries of the seller and was entitled to rely on the representations of the seller. The panel concluded that REALTOR® A was not in violation of Article 2.

DEFINITION OF "PERTINENT FACT"

Something *pertinent* is relevant, on-point and is related to the current topic or situation. Pertinent things are appropriate and logical and could possibly change the outcome of a decision.

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