



TRAINING TIP OF THE WEEK

Was my offer presented?

Every so often I'm asked whether or not listing agents have an obligation to present **all** offers received, and how a buyer's agent can **know for sure** that their offer had been presented to the seller. Not surprising, the current seller's market has prompted this question to be asked more than normal, and usually from frustrated agents who are submitting offers for buyers and getting NO response from listing agents. Let's discuss from all angles...

DIVISION OF REAL ESTATE, FIDUCIARY DUTIES

It is a serious breach of an agent's fiduciary duties to the seller NOT to present all purchase offers received. There is no excuse for agents not acting in the best interests of their sellers, even if the agent felt one or more offers have no chance of acceptance from the seller. *The only exception to this would be if the seller specifically instructed their agent NOT to present offers below a specified price (considered "lawful instruction" from the seller).

REALTOR® CODE OF ETHICS

The Code of Ethics is continuously updated and revised each year, but major additions are rare. However, in January 2020 the National Association of REALTORS® approved a significant change to Standard of Practice 1-7 (Article 1) dealing with this issue. It reads:

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.

Not only do listing agents have an ethical obligation to submit all offers, they are now also required to provide written confirmation that the offered was submitted to the seller, upon request from the buyer's agent.

Is the rejection of the REPC enough? YES! And the preferred method! Too often (presumably because of the number of offers received), agents instead counsel their sellers to NOT respond, therefore, allowing the REPC acceptance deadline to expire. A REPC rejection serves as sufficient affirmation the seller has received and reviewed the REPC and will further reduce the frustration that results from a lack of communication.

How do we hold the seller to the Code of Ethics? We can't. But we can hold the seller's REALTOR® accountable.

Is there a form to help facilitate Standard of Practice 1-7? At this time, no. The easiest way is to text or email the listing agent and their reply will work as affirmation. Brokerages could certainly create a more formal request and affirmation form, but it's not required.

PROFESSIONALISM. Ultimately, the term professionalism is meant to identify the competency and skill of a professional – a work ethic the public can rely on. As a listing agent, please make sure you take the time to respond to ALL offers submitted, keeping communication lines between all parties open, and helping to ease one of the frustrations buyers are experiencing in the current market.

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