

“Ethics”

(DC Course #12411)



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2609 CODE OF ETHICS FOR REAL ESTATE BROKERS, REAL ESTATE SALESPERSONS, AND PROPERTY MANAGERS

- 2609.1 A licensee shall not discriminate or assist any party in discriminating in the sale, rental, leasing, exchange, or transfer of property to any person or group of persons because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, physical handicap, source of income, matriculation, or place of residence or business, and shall comply with the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), as amended, and any other applicable District or federal anti-discrimination rule, regulation, or act. Nothing in this section shall supersede any federal rule, regulation, or act.
- 2609.2 A licensee who has information that would lead a reasonable person to believe that a real estate broker, real estate salesperson, or property manager has engaged in fraud, misrepresentation, or unethical practices shall promptly report the information to the Commission in any investigation or proceeding concerning any conduct prohibited by the Act.
- 2609.3 The provisions of § 2609.2 of this section shall not require the reporting by a licensee acting as an officer, director, investigator, committee member, or hearing panel member of a trade association, a majority of the members of which is comprised of licensees, of such information obtained during the course of an investigation of, or hearing on, an arbitration or ethics complaint pursuant to a program established by the trade association.
- 2609.4 A real estate broker shall not advertise without disclosing the broker's name and telephone number or the company's name and telephone number as shown by the records of the Department of Consumer and Regulatory Affairs.
- 2609.5 A real estate broker shall not knowingly permit a real estate salesperson or associate broker to use the salesperson's or associate broker's name in any advertisement without the name of the brokerage company with whom the salesperson or associate broker is affiliated, and the main telephone number of the brokerage company or branch office which serves as the salesperson's or associate broker's regular place of employment.

- 2609.6 A real estate salesperson or associate broker shall not knowingly permit the use of his or her name in any advertisement without the name of the brokerage company with whom he or she is affiliated, and the main telephone number of the brokerage company or branch office which serves as his or her regular place of employment.
- 2609.7 A licensee shall make a reasonable effort to ensure that all written agreements for the sale, purchase, rental, lease, or exchange of real property set forth the exact agreement of the parties and that the copies of the agreements are made available to each party when the party signs the agreement.
- 2609.8 A licensee shall not prepare or be a party to the preparation of any written agreement for the sale, purchase, rental, lease, or exchange of real property that falsely recites the purchase price.
- 2609.9 A licensee shall make a reasonable effort to ascertain all material facts concerning each property for which an agency is accepted.
- 2609.10 A licensee shall make a reasonable effort to keep informed about laws and rules, governmental policies, and current market conditions in order to advise a client properly.
- 2609.11 A licensee shall exercise fidelity and good faith to a client in all matters within the scope of the licensee's employment. The obligation of fidelity to the client's interest does not relieve the licensee from any statutory or regulatory obligations toward the other parties to the transaction.
- 2609.12 A licensee shall not accept compensation from more than one (1) party to a transaction without the full knowledge and consent of the other party or parties.
- 2609.13 A licensee shall disclose in writing to all parties to a real estate transaction any ownership interest in the property that is the subject of the real estate transaction held directly or indirectly by the licensee, an immediate member of the licensee's family, the licensee's firm, or a member of the licensee's firm.
- 2609.14 A licensee who manages property on behalf of the owner of the property shall not accept any commission, rebate, profit, or other valuable consideration on expenditures made for an owner without the owner's knowledge and consent.
- 2609.15 A licensee may give an opinion of the price of real estate for the purpose of a prospective listing or sale or when making a Competitive Market Analysis (CMA) if:
- (a) The licensee physically inspects the property; and
 - (b) The resulting opinion or CMA does not refer to an appraisal and is not presented as an appraisal.

- 2609.16 A licensee shall not give an opinion of the price of real estate for the purpose of a prospective listing or sale, make a competitive market analysis (CMA), or render an opinion of value on any property in which the licensee has a present interest without disclosing that interest to the client.
- 2609.17 A licensee shall not give an opinion of the price of real estate for the purpose of a prospective listing or sale or make a competitive market analysis (CMA) if the licensee's employment or fee is contingent upon the amount of the appraisal.
- 2609.18 A licensee shall not attempt to provide specialized professional services concerning a type of property or service that is outside the field of the licensee's experience, unless the licensee obtains the assistance of an expert, or discloses the licensee's lack of experience to the client.
- 2609.19 If a licensee engages an expert, the licensee shall identify the expert to the client and inform the client of the expert's contribution to the assignment.
- 2609.20 A licensee who has a listing with the owner of real property shall transmit to the owner all formal written offers received by the licensee, whether made by a prospective purchaser directly or through another licensee, unless the owner has accepted a previous offer.
- 2609.21 A licensee shall not attempt to contact the owner of real property directly for the purpose of inducing the owner to break a listing agreement when another licensee has a listing on the property.
- 2609.22 A licensee shall not place any signs on any property without the owner's written consent.
- 2609.23 A licensee shall not influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner, including any act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, or violates a statute or regulation. This regulation shall not prohibit a licensee from making a good faith complaint against a real estate appraiser.
- 2609.24 In addition to complying with the requirements set forth in this section, a licensee shall comply with the requirements set forth in the Act, the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq.*), as amended, and the rules issued pursuant to those acts.

2615 ADVERTISING REQUIREMENTS

- 2615.1 Advertising real property in any communications medium, by persons licensed under this chapter, is subject to the disclosure, agency, and duty requirements of this chapter, the Act, the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq.*), as amended, and any other applicable District or federal law, rule, or regulation.
- 2615.2 Institutional advertising may not contain false or misleading information.
- 2615.3 All advertising shall be under the direct supervision of the principal broker or supervising broker and shall be in the name of the firm. The firm's licensed name shall be displayed clearly and legibly on all advertising.
- 2615.4 [RESERVED].
- 2615.5 Online advertising, including e-mail, web pages, message board postings, instant messages, chat, or any other method of communication that may be transmitted over any computer network, is subject to the requirements of this chapter, 17 DCMR Chapter 27, the Act and the District of Columbia Real Estate Licensure Act of 1982, effective March 10, 1983 (D.C. Law 4-209; D.C. Official Code § 42-1701 *et seq.*), as amended.
- 2615.6 Online advertising undertaken for the purpose of any licensed activity that can be viewed or experienced as a separate unit such as e-mail messages or web pages shall contain an on-line disclosure as follows:
- (a) If a firm or licensee owns a web page or controls its content, the viewable page shall include an on-line disclosure or a link to an on-line disclosure;
 - (b) E-mail, newsgroups, discussion lists, and bulleting boards shall include an on-line disclosure at the beginning or end of each message. The provisions of this subsection do not apply to correspondence with persons with whom the licensee has already established a brokerage relationship and which are made in the ordinary course of business;
 - (c) On-line disclosure is not necessary in an instant message, IRC, or ICQ format if the firm or licensee has provided the on-line disclosure via another format prior to providing, or offering to provide, services licensed under this chapter;
 - (d) On-line disclosure is required prior to providing, or offering to provide, licensable services during a chat session. On-line disclosure may appear in the text visible on the same webpage that contains the chat session if the licensee controls the website hosting the chat session;

- (e) On-line disclosure is required prior to advertising in Voice Over Net (VON) format or the disclosure text shall be visible on the same webpage that contains the VON session;
- (f) Banner, Pop-up, and Pop-under ads, or any variation thereof, shall include a link to an on-line disclosure unless the banner or pop-up ad contains the on-line disclosure; and
- (g) Licensees shall not use unsolicited commercial e-mail (Spam) to promote licensed activity. Licensees are responsible for the actions of third parties that provide commercial e-mail advertising and marketing services for the benefit of the licensee.

2615.6 Only persons licensed as real estate brokers may use the title or designation "real estate broker", the abbreviation "R.E.B.", or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is a licensed real estate broker in the District.

2615.7 Only persons licensed as real estate salespersons may use the title or designation "real estate salesperson", the abbreviation "R.E.S.", or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is a licensed real estate salesperson in the District.

2620 TERM OF A LICENSE

2620.1 A license or certificate issued to a real estate broker, associate real estate broker, or property manager between January 1 and February 28 of an odd-numbered year shall be valid from the date of issuance through the end of the two-year (2) licensing period commencing on March 1 of that year.

2620.2 A real estate salesperson license issued pursuant to this chapter shall expire on August 31 of each odd-numbered year.

2620.3 The Commission may change the license cycle to another system for administrative convenience.

2620.4 If the Commission changes the license cycle under § 2620.3 of this section, the term of a license that is in effect on the date of the Commission's determination to change the system may be extended up to three (3) years in order to permit an orderly transition.

2621 RENEWAL OF A LICENSE

2621.1 At least sixty (60) days prior to the expiration of a license, the Commission shall send a renewal application by certified or registered first class mail to the holder of a license at the licensee's last known address.



DC Real Estate Licensure Law

When advertising your services or a property in Washington, DC, it is important to keep the DC Real Estate Licensure Law in mind.

The law spells out the requirements for brokers and salespersons licensed in DC, including how they must represent themselves or a property in marketing and advertising.

Even how you present yourself on a business card or sign is critical. According to Schanolia Barnes, Education Liaison with the DC Board of Real Estate, "An agent must use the exact name in which his or her license was issued. If the DC Board of Real Estate issued a license under the name Jack Sprat, with Sprat Realty Company, he must use the name Jack Sprat on his business cards. Pen, abbreviated, or nicknames may be considered a misrepresentation and may lead to misunderstandings, and are prohibited."

Even using a nickname on your business card or a sign can be misleading if your license has your full name. In addition, the law requires that you use the name of the real estate brokerage company under which you work. If you prominently advertise, in big bold letters, "Call Jack" or "Bob" or "Sue" without making reference to the name under which your license was issued and your brokerage company, then you're in violation of the law, whether you're a salesperson, property manager, or broker.

Being overly creative in advertising can lead to "substantial misrepresentation", another prohibitive act of the law. A salesperson or broker may be subject to disciplinary action and fines if he or she "knowingly prepared, distributed or circulated or caused the preparation, distribution, or circulation of any false or misleading advertisement in connection with the sale, exchange, purchase, lease or rental of real estate business."

To get a copy of the regulations, visit www.asisvcs.com.

Click on "Publications."

Choose "Real Estate" as the Area of Interest and the "District of Columbia" as the state.

Click on "Regulations."

You may also request a copy from ASI by calling (888) 204-6192.

Ask for the DC real estate licensure law, formally known as the Non-Health Related Occupations and Professions Licensure Act of 1998.



**Competitive Market Analysis (CMA) Notice
(To be used as the first page on a CMA)**

THIS ANALYSIS IS NOT AN APPRAISAL. IT IS INTENDED ONLY FOR THE PURPOSE OF ASSISTING BUYERS OR SELLERS OR PROSPECTIVE BUYERS OR SELLERS IN DECIDING THE LISTING, OFFERING OR SALE PRICE OF THE REAL PROPERTY.

THE REAL ESTATE LICENSEE WHO HAS PREPARED THIS CMA IS NOT AN APPRAISER. THIS ANALYSIS HAS NOT BEEN PERFORMED IN ACCORDANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL, WHICH REQUIRES VALUERS TO ACT AS UNBIASED, DISINTERESTED THIRD PARTIES WITH IMPARTIALITY, OBJECTIVITY, AND INDEPENDENCE, AND WITHOUT ACCOMMODATION OF PERSONAL INTEREST. THIS CMA IS NOT TO BE CONSTRUED AS AN APPRAISAL AND MAY NOT BE USED AS SUCH FOR ANY PURPOSE.

THE ACTUAL APPRAISED VALUE OF THE PROPERTY MAY BE SIGNIFICANTLY HIGHER OR LOWER THAN THE RANGE OF PRICES REFLECTED IN THIS CMA BASED UPON APPLICABLE APPRAISAL STANDARDS.

The real estate licensee preparing this CMA: _____ has experience with the type of property for which this CMA was prepared and the property is within the real estate licensee's field of expertise; **OR** _____ does not have such experience and the property is outside the real estate licensee's field of expertise.

Another person who is competent or such type of property _____ was **OR** _____ was not engaged to assist the real estate licensee in the preparation of this CMA. If another person was engaged, the name of the person is _____ and the person's contribution in the preparation of this CMA is as follows: _____

The real estate licensee _____ does **OR** _____ does not have an ownership interest in any of the comparable properties included in this CMA. If the real estate licensee has such an ownership interest, the property is identified as follows:

The undersigned have read the Notice and disclosures as made above and hereby acknowledge receipt of this Notice.

Date

Date

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Previous Editions of this form should be destroyed.



SELLER'S DISCLOSURE STATEMENT
Instructions to the Seller for Seller's Disclosure Statement

These Instructions are to assist the Seller in completing the required Seller's Disclosure Statement in order to comply with the District of Columbia Residential Real Property Seller Disclosure Act.

- 1. Who must complete the Seller's Disclosure Statement?** The Seller, not the broker and not the management company, condominium association, cooperative association or homeowners association.
- 2. In what types of transactions must the Seller provide the Seller's Disclosure Statement to the Purchaser?** The Act applies to the following types of transfers or sales of District of Columbia real estate:
- (a) where the property consists of one to four residential dwelling units, and,
 - (b) the transactions a sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase, and,
 - (c) the purchaser expresses, in writing, an interest to reside in the property to be transferred.

However, the Act does not apply to:

- (a) court ordered transfers;
- (b) transfers to a mortgagee by a mortgagor in default;
- (c) transfers by sale under a power of sale in a deed of trust or mortgage or any foreclosure sale under a decree of foreclosure or deed in lieu of foreclosures;
- (d) transfers by a non-occupant fiduciary administering a decedent's estate, guardianship, conservatorship or trust;
- (e) transfers between co-tenants;
- (f) transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling (or any combinations of the foregoing);
- * (g) transfer between spouses under a divorce judgment incidental to such a judgment;
- (h) transfers or exchanges to or from any governmental entity; and
- (i) transfers made by a person of newly constructed residential property that has not been inhabited.

3. When does the Seller's Disclosure Statement have to be provided to the Purchaser? In a sale, before or at the time the prospective transferee executes a purchase agreement with the transferor. In an installment sales contract (where a binding purchase contract has not been executed), or in the case of a lease with no option to purchase, before or at the time the prospective transferee executes the installment sales contract or lease with the transferor.

4. What information must the Seller disclose? Answer ALL questions on the Seller's Disclosure Statement. If some items do not apply to your property, check "N/A" (not applicable). If you do not know the facts, check "UNKNOWN". Report actually known conditions referred to in the questions. Each disclosure must be made in "good faith" (honesty in fact in the making of the disclosure). Attach additional pages with your signature if additional space is required.

The Seller of a condominium unit, cooperative unit, or a lot in a homeowners association, is to provide information only as to the Seller's unit or lot, and not as to any common elements, common areas or other areas outside of the unit or lot.



SELLER'S DISCLOSURE STATEMENT
Instructions to the Seller for Seller's Disclosure Statement

5. What is the remedy if the Seller does not provide the Seller's Disclosure Statement to the Transferee? If the Seller's Disclosure Statement is delivered after the purchaser executes the purchase agreement, installment sales contract or lease with an option to purchase, the purchaser may terminate the transaction by written notice to the seller not more than five (5) calendar days after receipt of the Seller's Disclosure Statement by the purchaser, and the deposit must be returned to the purchaser. The right to terminate is waived if not exercised before the earliest of:

- (a) the making of an application for a mortgage loan (if the lender discloses that the right to rescind terminates on submission of the application); or
- (b) settlement or date of occupancy in the case of a sale; or
- (c) occupancy in the case of a lease with an option to purchase.

6. If the Seller finds out different information after providing the Seller's Disclosure Statement to the Purchaser, how does this impact a ratified contract? If information becomes inaccurate after delivery of the disclosure form, the inaccuracy shall not be grounds for terminating the transaction.

7. How must a Seller deliver the Seller's Disclosure Statement to the Transferee? The Seller's Disclosure Statement must be delivered by personal delivery, facsimile delivery, or by registered mail to the transferee. Execution by the transferor of a facsimile is considered execution of the original.

2708 REAL PROPERTY SELLER'S DISCLOSURE STATEMENT

2708.1 The requirements of this section shall apply to the transfer or sale of real property located in the District consisting of at least one (1) but not more than four (4) dwelling units, where:

- (a) The transfer is effected through a sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase; and
- (b) The purchaser of the property to be transferred has expressed in writing an interest to reside in the property.

2708.2 This section shall not apply to the following kinds of transfers:

- (a) Court ordered transfers, including:
 - (1) Transfers ordered by a probate court in the administration of an estate;
 - (2) Transfers pursuant to a writ of execution;
 - (3) Transfers by a foreclosure sale;
 - (4) Transfers by a trustee in bankruptcy;
 - (5) Transfers by eminent domain; and
 - (6) Transfers from a decree for specific performance.
- (b) Transfers to a mortgagee by a mortgagor or successor in interest who is in default;
- (c) Transfers by:
 - (1) A sale under a power of sale;
 - (2) A foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or any other instrument containing a power of sale; or
 - (3) A mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.
- (d) Transfers by a non-occupant fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust;
- (e) Transfers from one cotenant to one or more other cotenants;
- (f) Transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling, or any combination of the foregoing;
- (g) Transfers between spouses resulting from the following:
 - (1) A judgment of divorce;
 - * (2) A judgment of separate maintenance; or

- (3) From a property settlement agreement incidental to a judgment;
 - (h) Transfers or exchanges to or from a governmental entity; and
 - (i) Transfers made by a person of newly constructed residential property that has not been inhabited.
- 2708.3 The transferor or seller of real property described in § 2708.1 of this section shall provide a completed Seller's Disclosure Statement in the form prescribed under § 2708.13 of this section. This shall be the form for the disclosure statement required under section 3 of the Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Services Board Independent Procurement Authority Act of 1998, vetoed by the Mayor on December 29, 1998, and overridden by the Council on January 5, 1999, effective April 20, 1999 (D.C. Law 12-263, §2; D.C. Official Code § 42-1301 et seq.).
- 2708.4 The transferor or seller shall sign the Seller's Disclosure Statement and deliver it to the purchaser or transferee as follows:
 - (a) In the case of a sale, before or at the time the prospective purchaser or transferee executes a purchase agreement with the transferor; or
 - (b) In the case of an installment sales contract where a binding purchase contract has not been executed or in the case of a lease with an option to purchase; before or at the time the prospective purchaser or transferee executes the installment sales contract or lease with the transferor or seller.
- 2708.5 The transferor or seller shall complete the items set forth in Seller's Disclosure Statement as follows:
 - (a) The transferor or seller shall answer all questions on the Seller's Disclosure Statement;
 - (b) If an item does not apply to the subject property, the transferor or seller shall check "N/A" (not applicable) on the Seller's Disclosure Statement; and
 - (c) If the information regarding a specific item is not known, the transferor or seller shall check "UNKNOWN" on the Seller's Disclosure Statement.
- 2708.6 Responses to items on the Seller's Disclosure Statement shall be made in good faith, which means honesty in fact in the making of the disclosure. Information provided in the statement shall be based on information available and actually known to the transferor or seller.
- 2708.7 If additional space is required in responding to an item, the transferor or seller shall attach an additional page for that item. Each additional page shall bear the signature of the transferor or seller.
- 2708.8 The transferor or seller of a condominium unit, cooperative unit, or a lot in a homeowners association shall provide information only as to the transferor's or seller's unit or lot and not as to any common elements, common areas, or other areas outside the unit or lot.
- 2708.9 If the transferor or seller fails to provide a completed Seller's Disclosure Statement before the purchaser executes a purchase agreement, installment sales contract, or lease with an option to purchase, the purchaser or transferee may terminate the agreement, contract or lease by delivering written notice to the transferor or seller not more than five (5) calendar days after the receipt of the disclosure statement. If the agreement, contract, or lease is terminated, the transferor or seller shall return the deposit to the transferee.

SELLER'S PROPERTY CONDITION STATEMENT
For Washington, DC

Property Address: _____

Is the property included in a:

- condominium association? Yes No
cooperative? Yes No
homeowners association with mandatory participation and fee?
 Yes No

If this is a sale of a condominium unit or cooperative unit, or in a homeowners association, this disclosure form provides information only as to the unit (as defined in the governing documents of the association) or lot (as defined in the covenants applicable to the lot), and not as to any common elements, common areas or other areas outside of the unit or lot.

Purpose of Statement: This Statement is a disclosure by the Seller of the defects or information actually known by the Seller concerning the property, in compliance with the District of Columbia Residential Real Property Seller Disclosure Act. Unless otherwise advised, the Seller does not possess an expertise in construction, architecture, engineering, or any other specific area related to the construction of the improvements on the property or the land. Also, unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. THIS STATEMENT IS NOT A WARRANTY OF ANY KIND BY THE SELLER OR BY ANY AGENT REPRESENTING THE SELLER IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE BUYER MAY WISH TO OBTAIN.

Seller Disclosure: The Seller discloses the following information with the knowledge that, even though this is not a warranty, the Seller specifically makes the following statements based on the seller's actual knowledge at the signing of this document. Upon receiving this statement from the Seller, the Seller's agent is required to provide a copy to the Buyer or the agent of the Buyer. The Seller authorizes its agent (s) to provide a copy of this statement to any prospective buyer or agent of such prospective buyer in connection with any actual or anticipated sale of property. The following are statements made solely by the Seller and are not the statements of the Seller's agent (s), if any. This information is a disclosure only and is not intended to be a part of any contract between Buyer and Seller.

The seller(s) completing this disclosure statement have owned the property from _____ to _____.
The seller(s) completing this disclosure have occupied the residence from _____ to _____.

A. Structural Conditions

1. **Roof** roof is a common element maintained by condominium or cooperative (no further roof disclosure required).

Age of Roof 0-5 years 5-10 years 10-15 years 15+ years Unknown

Does the seller have actual knowledge of any current leaks or evidence of moisture from roof?

Yes No If yes, comments: _____

Does the seller have actual knowledge of any existing fire retardant treated plywood?

Yes No If yes, comments: _____

2. **Fireplace/Chimney(s)**

Does the seller have actual knowledge of any defects in the working order of the fireplaces?

Yes No No fireplace(s)

If yes, comments: _____

Does the seller know when the chimney(s) and/or flue were last inspected and/or serviced?

Yes No No chimneys or flues

If yes, when were they last serviced or inspected? _____

3. **Basement**

Does the seller have actual knowledge of any current leaks or evidence of moisture in the basement?

Yes No Not Applicable

If yes, comments: _____

Does the seller have actual knowledge of any structural defects in the foundation?

Yes No

If yes, comments: _____

4. **Walls and floors**

Does the seller have actual knowledge of any structural defects in walls or floors?

Yes No

If yes, comments: _____

5. **Insulation**

Does the seller have actual knowledge of presence of urea formaldehyde foam insulation?

Yes No

If yes, comments: _____

6. **Windows**

Does the seller have actual knowledge of any windows not in normal working order?

Yes No

If yes, comments: _____

B. Operating Condition of Property Systems

1. **Heating System** heating system is a common element maintained by condominium or cooperative (no further disclosure on heating system required).

Type of system Forced Air Radiator Heat Pump

Electric baseboard Other

Heating Fuel Natural Gas Electric Oil Other

Age of system 0-5 years 5-10 years 10-15 years Unknown

Does the seller have actual knowledge that heat is not supplied to any finished rooms?

Yes No

If yes, comments: _____

Does the seller have actual knowledge of any defects in the heating system?

Yes No

If yes, comments: _____

Does the heating system include:

Humidifier Yes No Unknown

Electronic air filter Yes No Unknown

If installed, does the seller have actual knowledge of any defects with the humidifier and electronic filter?

Yes No Not Applicable

If yes, comments: _____

2. **Air Conditioning System** air conditioning is a common element maintained by condominium or cooperative (no further disclosure on air conditioning system required).

Type of system: Central AC Heat Pump Window/wall units

Other Not Applicable

Air Conditioning Fuel Natural Gas Electric Oil Other

Age of system 0-5 years 5-10 years 10-15 years Unknown

If central AC, does the seller have actual knowledge that cooling is not supplied to any finished rooms? Yes No Not Applicable

If yes, comments: _____

Does the seller have actual knowledge of any problems or defects in the cooling system?

Yes No Not Applicable

If yes, comments: _____

3. Plumbing System

Type of system: Copper Galvanized Plastic Polybutelene Unknown

Water Supply: Public Well

Sewage Disposal Public Well

Water Heater Fuel Natural Gas Electric Oil Other

Does the seller have actual knowledge of any defects with the plumbing system?

Yes No

If yes, comments: _____

4. Electrical System

Does the seller have actual knowledge of any defects in the electrical system, including the electrical fuses, circuit breakers, outlets, or wiring?

Yes No

If yes, comments: _____

C. Appliances

Does the seller have actual knowledge of any defects with the following appliances?

Range/Oven	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Dishwasher	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Refrigerator	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Range hood/fan	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Microwave oven	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Garbage Disposal	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Sump Pump	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Trash compactor	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
TV antenna/controls	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Central vacuum	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Ceiling fan	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Attic fan	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Sauna/Hot tub	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Pool heater & equip.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Security System	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Intercom System	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Garage door opener	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
& remote controls	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Lawn sprinkler system	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Water treatment system	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Smoke Detectors	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Carbon Monoxide			
Detectors	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable
Other Fixtures			
Or Appliances	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not Applicable

If yes to any of the above, describe defects: _____

D. Exterior/Environmental Issues

1. Exterior Drainage

Does the seller have actual knowledge of any problem with drainage on the property?

Yes No

If yes, comments: _____

2. Damage to property

Does the seller have actual knowledge whether the property has previously been damaged by:

Fire Yes No

Wind Yes No

Flooding Yes No

If yes, comments: _____

3. Wood destroying insects or rodents:

Does the seller have actual knowledge of any infestation or treatment for infestations?

Yes No

If yes, comments: _____

Does the seller have actual knowledge of any prior damage or repairs due to a previous infestation?

Yes No

If yes, comments: _____

4. Does the seller have actual knowledge of any substances, materials or environmental hazards (including but not limited to asbestos, radon gas, lead based paint, underground storage tanks, formaldehyde, contaminated soil, or other contamination) on or affecting the property?

Yes No

If yes, comments: _____

5. Does the seller have actual knowledge of any zoning violations, nonconforming uses, violation of building restrictions or setback requirements, or any recorded or unrecorded easement, except for utilities, on or affecting the property?

Yes No

If yes, comments: _____

6. Does the seller have actual knowledge that this property is a DC Landmark, included in a designated historic district or is designated a historic property?

Yes No

If yes, comments: _____

7. Has the property been cited for a violation of any historic preservation law or regulation during your ownership?

Yes No

If yes, comments: _____

8. Does the seller have actual knowledge if an façade easement or a conservation easement has been placed on the property?

Yes No

If yes, comments: _____

The seller(s) certifies that the information in this statement is true and correct to the best of their knowledge as known on the date of signature.

Seller

Date

Seller

Date

Buyer(s) have read and acknowledge receipt of this statement and acknowledge that this statement is made based upon the seller's actual knowledge as of the above date. This disclosure is not a substitute for any inspections or warranties which the buyer(s) may wish to obtain. This disclosure is NOT a statement, representation, or warranty by any of the seller's agents or any sub-agents as to the presence or absence of any condition, defect or malfunction or as to the nature of any condition, defect or malfunction.

Buyer

Date

Buyer

Date



THIS NOTICE IS REQUIRED BY LAW AND IS NOT A CONTRACT.

THIS DISCLOSURE DOES NOT CREATE A BROKERAGE RELATIONSHIP.

Disclosure of Brokerage Relationship District of Columbia

Prior to providing specific real estate assistance, District of Columbia law requires that a licensee disclose to any party who the licensee does **NOT** represent the identity of the party to the proposed transaction which the licensee does represent. Even though a licensee may not represent you, that licensee must still treat you honestly in the transaction.

We, the undersigned Buyer(s)/Tenant(s) or Seller(s)/Landlord(s) acknowledge receipt of this Disclosure, and understand we are **NOT** represented by the licensee identified below.

_____ and _____
 (Licensee & License #) (Brokerage Firm)

The licensee and brokerage firm named above represent the following party in the real estate transaction:

Seller(s)/Landlord(s) (The licensee has entered into a written listing agreement with the seller(s) or landlord(s) or is acting as a sub-agent of the listing broker.)

Buyer(s)/Tenant(s) (The licensee has entered into a written agency agreement with the buyer/tenant.)

Designated Agent of the Buyer(s)/Tenant(s) or Seller(s)/Landlord(s)
 (Both the buyers and sellers have previously consented to "Designated Agency", and the licensee listed above is indicating the parties represented.)

 Acknowledged Date

 Acknowledged Date

Name of Person(s): _____
 I certify on this date that I, the real estate agent, have delivered a copy of this disclosure to the person(s) identified above.

 Signed (Licensee) Date

Previous editions of this form should be destroyed.

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Consent for Dual Representation and Designated Representation in the District of Columbia

(To be attached to all listing agreements and buyer or tenant brokerage agreements for transactions in the District of Columbia.)

“Designated Representation” occurs when the Seller or Landlord has entered into a listing agreement with a licensee and the Buyer or Tenant has entered into a buyer brokerage agreement with a different licensee affiliated with the same firm. Each of the licensees, known as Designated Representatives, represents fully the interest of his/her individual clients. The Supervising Broker is a Dual Representative of both the Buyer and Seller, and must not disclose information obtained in confidence to other parties in the transaction.

- If the Seller or Landlord does not consent to Designated Representation, the property may not be shown by any licensees affiliated with the brokerage firm that have entered into a representation agreement with a prospective Buyer or Tenant.
- If the Buyer or Tenant does not consent to Designated Agency, the Buyer or Tenant may not be shown any properties listed by other licensees affiliated with the brokerage firm.
Prior to entering into a contract in which the buyer and seller are represented by Designated Representatives, the relationship of both Designated Agents must be disclosed/confirmed in writing.

“Dual Representation” occurs when Seller or Landlord has entered into a listing agreement with a licensee and the Buyer or Tenant has entered into a buyer brokerage agreement with the same licensee. When the parties agree to dual representation, the ability of the licensee and the brokerage firm to represent either party fully and exclusively is limited. The confidentiality of all clients shall be maintained.

- If the Seller or Landlord does not consent to Dual Representation, the property may not be shown by the licensee to any prospective Buyers or Tenants that have entered into a buyer brokerage agreement with the licensee.
- If the Buyer or Tenant does not consent to Dual Agency, the licensee may not show any properties listed by the licensee.
- Prior to entering into a contract in which the buyer and seller are represented by Dual Agency, this relationship must be disclosed/confirmed in writing.

I(We) consent to **Designated Representation**, acknowledging the broker/firm _____, may represent both the seller(s) and buyer(s) or landlords and tenants, and the sales associate, _____, license # _____ as the Designated Representative for the party indicated below:

Sellers(s) or Buyer(s)
 Landlord(s) or Tenant(s)

I (We) do not consent to **Designated Representation**

I (We) consent to **Dual Representation**, acknowledging the broker/firm _____, and the sales associate, _____, license # _____ may represent both the seller(s) and buyer(s) (or landlord(s) and tenant(s)), as the **Dual Representatives** for the both parties indicated below:

Sellers(s)and Buyer(s)
 Landlord(s) and Tenant(s)

I (We) do not consent to **Dual Representation**

Signed _____ Date _____
 Signed _____ Date _____

Previous editions of this form should be destroyed.

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Washington, DC Disclosure/Confirmation of Dual Representation and/or Designated Representation

* (To be attached to the Regional Sales Contract or Lease Agreement whenever
Dual Agency or Designated Representation occurs on a DC transaction.)

With respect to the property located at _____
the undersigned, having previously consented to Dual Agency of the brokerage firm do hereby acknowledge disclosure
that:

(Name of brokerage firm acting as Dual Representative)
represents more than one party to the real estate transaction as indicated below:

Seller(s) and Buyer(s) or Landlord(s) and Tenant(s)

The Seller(s) or Landlord(s) and the Buyer(s) or Tenant(s) are proceeding with the transaction acknowledging:
(choose one below)

Designated Representation:

The brokerage firm has assigned _____
(Name of Licensee and License #)
to act as the Designated Representative of the Seller(s) or Landlord(s) and,

The brokerage firm has assigned _____
(Name of Licensee and License #)
to act as the Designated Representative of the Buyer(s) or Tenant(s)

----- OR -----

Dual Representation

The Licensee: _____
(Name of Licensee and License #)
And the Brokerage Firm represents more than one party to the contract as indicated above.

Seller or Landlord	Date	Buyer or Tenant	Date
Seller or Landlord	Date	Buyer or Tenant	Date

. Previous editions of this form should be destroyed.

Case #16-14: Dealings Initiated by Another Broker's Client
(Adopted May, 1999.)

REALTOR® X, a residential broker, had recently listed a home. REALTOR® X's marketing campaign included "open houses" on several consecutive weekends.

One Sunday afternoon Buyer B came to the open house. REALTOR® X introduced herself to Buyer B and asked whether Buyer B was working with another broker. Buyer B responded that he was, in fact, exclusively represented but went on to add that he was quite familiar with the property as it had been previously owned by a close personal friend. REALTOR® X told Buyer B that she would be happy to show Buyer B through the home and answer any questions he might have, but added that she represented the seller and not Buyer B.

After viewing the home, Buyer B indicated that he was seriously interested in the property and intended to discuss a possible purchase offer with his buyer representative. REALTOR® X responded that there were several other buyers interested in the property and that it would likely sell quickly. "I can't tell you what to do, but if it were me, I would make an offer today," REALTOR® X told Buyer B, "You can go back and discuss this with your broker if you like or I can help you write a purchase contract. It's your choice." With REALTOR® X's words in mind, Buyer B decided to make an offer. REALTOR® X assisted Buyer B in filling out a standard form purchase contract which was accepted by the seller later that day.

REALTOR® X was subsequently charged with violating Article 16 for dealing and negotiating with a party who had an exclusive relationship with another REALTOR®.

At the hearing, REALTOR® X defended her actions noting that she had told Buyer B that she was the seller's exclusive agent and, as such, would not and could not represent Buyer B's interests. She pointed out that Buyer B had asked for her help in writing a purchase offer and had not sought the counsel and assistance of his exclusive representative. She concluded her defense noting that Standard of Practice 16-13 authorizes dealings with the client of another broker when those dealings are initiated by the client.

The Hearing Panel disagreed with REALTOR® X's reasoning. They concluded that REALTOR® X's inducement of Buyer B by emphasizing that the property might sell quickly (which might well have been true), coupled with her offer to prepare a purchase contract on Buyer B's behalf, constituted an initiation of dealings on the property by REALTOR® X, not by Buyer B. As a result, REALTOR® X was found in violation of Article 16.

Case #1-18: REALTOR® Not Responsible for Legal Advice (Originally Case #2-4. Revised and transferred to Article 7 as Case #7-22 May, 1988. Transferred to Article 1 November, 1994.)

Client A listed a commercial property with REALTOR® B who sold it. Following the sale, Client A learned that his total tax position would have been more favorable if he had disposed of the property in a trade. He complained to the Board of REALTORS® against REALTOR® B stating that in connection with his listing of the property he had discussed his total tax position with REALTOR® B, and that REALTOR® B, in spite of his obligation under Article 1 of the Code of Ethics to "be informed regarding laws" had failed to advise him that a trade would be more to his advantage than a sale.

At the hearing, REALTOR® B defended his actions by stating that it was true that Client A had briefly outlined his total tax situation at the time he listed the property for sale. REALTOR® B advised that he had told Client A that sale of the listed property might result in unfavorable tax consequences and suggested that Client A consult an attorney. The client had not taken this advice.

After several weeks of advertising and showing the property, in the absence of a change of instructions from the client, the property was sold in accordance with the terms of the listing contract.

The Hearing Panel concluded that advising the client to consult an attorney had demonstrated REALTOR® B's attempt to protect the best interest of his client; that in giving this advice REALTOR® B had fully discharged his obligation under Article 1; that a REALTOR® is not responsible for rendering legal advice beyond the advice that legal advice be sought when the client's interest requires it; and that REALTOR® B was not in violation of Article 1.

Case #15-2: Intentional Misrepresentation of a Competitor's Business Practices (Adopted Case #23-2 November, 1992. Transferred to Article 15 November, 1994. Revised November, 2001.)

Case #15-2: Intentional Misrepresentation of a Competitor's Business Practices (Adopted Case #23-2 November, 1992. Transferred to Article 15 November, 1994. Revised November, 2001.)

Following a round of golf early one morning, Homeowner A approached REALTOR® X. "We've outgrown our home and I want to list it with you," said Homeowner A. "I'm sorry," said REALTOR® X, "but I represent buyers exclusively." "Then how about REALTOR® Z?" asked Homeowner A, "I've heard good things about him." "I don't know if I would do that," said REALTOR® X, "while he does represent sellers, he doesn't cooperate with buyer brokers and, as a result, sellers don't get adequate market exposure for their properties."

Later that day, Homeowner A repeated REALTOR® X's remarks to his wife who happened to be a close friend of REALTOR® Z's wife. Within hours, REALTOR® Z had been made aware of REALTOR® X's remarks to Homeowner A earlier in the day. REALTOR® Z filed a complaint against REALTOR® X charging him with making false and misleading statements. REALTOR® Z's complaint was considered by the Grievance Committee which determined that an ethics hearing should be held.

At the hearing REALTOR® Z stated, "I have no idea what REALTOR® X was thinking about when he made his comments to Homeowner A. I always cooperated with other REALTORS®." REALTOR® X replied, "That's not so. Last year you had a listing in the Multiple Listing Service and when I called to make an appointment to show the property to the buyer, you refused to agree to pay me." REALTOR® Z responded that he had made a formal offer of subagency through the MLS with respect to that property but had chosen not to offer compensation to buyer agents through the MLS. He noted, however, that the fact that he had not made a blanket offer of compensation to buyer agents should not be construed as a refusal to cooperate and that he had, in fact, cooperated with REALTOR® X in the sale of that very property.

In response to REALTOR® Z's questions, REALTOR® X acknowledged that he had shown his buyer-client REALTOR® Z's listing and that the buyer had purchased the property. Moreover, REALTOR® X said, upon questioning by the panel members, he had no personal knowledge of any instance in which REALTOR® Z had refused to cooperate with any other broker but had simply assumed that REALTOR® Z's refusal to pay the compensation REALTOR® X had asked for was representative of a general practice on the part of REALTOR® Z.

The Hearing Panel, in its deliberations, noted that cooperation and compensation are not synonymous and though formal, blanket offers of cooperation and compensation can be communicated through Multiple Listing Services, even where they are not, cooperation remains the norm expected of REALTORS®. However, to characterize REALTOR® Z's refusal to pay requested compensation as a "refusal to cooperate" and to make the assumption and subsequent statement that REALTOR® Z "did not cooperate with buyer agents" was false, misleading, and not based on factual information. Consequently, REALTOR® X was found in violation of Article 15.

Case #17-3: Dispute Between REALTORS® of Different Boards (Reaffirmed Case #14-7 May, 1988. Transferred to Article 17 November, 1994.)

REALTOR® A, the listing broker and a member of the X Board of REALTORS®, and REALTOR® B, the cooperating broker and a member of the Y Board of REALTORS®, disagreed as to whether REALTOR® B should participate in a commission on a sale. The property was located within the jurisdiction of REALTOR® A's Board, and REALTOR® A proposed that the dispute be submitted for arbitration within his Board, the X Board of REALTORS®. REALTOR® B agreed, and appeared before an arbitration panel of the Professional Standards Committee of the X Board of REALTORS® to present evidence in support of his view that he was entitled to participate in the commission. The arbitration panel of the X Board of REALTORS® found in favor of REALTOR® A.

REALTOR® B then requested his Board, the Y Board of REALTORS®, to contact the X Board of REALTORS® for the purpose of arranging interboard arbitration as provided for in Article 17 of the Code of Ethics. The Y Board of REALTORS® refused, pointing out that REALTOR® B had voluntarily accepted the proposal to have the matter arbitrated by the X Board of REALTORS®; that he had agreed to be bound by the Hearing Panel's decision; had participated in the arbitration proceeding; and having done so, he was not, following an adverse decision, entitled to initiate another arbitration hearing.

Case #12-9: Unethical Advertising

(Originally Case #9-2. Revised and transferred to Article 19 as Case #19- 12 May, 1988. Transferred to Article 12 November, 1994.)

REALTOR® A inserted an ad in the local newspaper soliciting \$5,000 investments in a "sure thing." The ad explained that he was seeking only ten investors at \$5,000 each; that each investor would receive \$6,000 for his investment in 30 days; or, if he chose to invest for a longer period, could receive \$8,000 in 90 days. The ad stated that REALTOR® A personally guaranteed this investment experience to the first ten investors who responded to the ad.

The President of REALTOR® A's Board saw the ad and was concerned. He requested the Board's Grievance Committee review the matter and determine if a hearing was warranted. The Grievance Committee asked REALTOR® A to demonstrate that he had put liquid assets in escrow to back up his published guarantee. REALTOR® A was at first evasive, and then explained that there was no possibility of any one losing any money as a result of his ad because he had simply been using ingenuity to develop a list of prospects interested in small real estate investments.

The Grievance Committee referred the matter to the Professional Standards Committee of the Board for a hearing, charging a violation of Article 12 of the Code of Ethics. In the subsequent hearing, REALTOR® A explained that he had told those who inquired that the opportunity was no longer available, but that he would take their names and addresses for future investment opportunities that might arise. He explained that in this case any guarantee he would make in a tangible transaction would, of course, be fully protected by liquid assets put in escrow.

The Hearing Panel concluded that REALTOR® A had not provided a "true picture" in his advertisement, and was in violation of Article 12.

Case 4-6: Disclosure of Secured Interest in Listed Property

(Adopted May, 1999.)

Buyer X was interested in purchasing a home listed with REALTOR® B but lacked the down payment. REALTOR® B offered to lend Buyer X money for the down payment in return for Buyer X's promissory note secured by a mortgage on the property. The purchase transaction was subsequently completed, though REALTOR® B did not record the promissory note or the mortgage instrument.

Within months Buyer X returned to REALTOR® B to list the property because Buyer X was unexpectedly being transferred to another state. REALTOR® B listed the property, which was subsequently sold to Purchaser P. The title search conducted by Purchaser P's lender did not disclose the existence of the mortgage held by REALTOR® B since it had not been recorded, nor did REALTOR® B disclose the existence of the mortgage to Purchaser P. The proceeds of the sale enabled Buyer X to satisfy the first mortgage on the property, and he and REALTOR® B agreed that he would continue to repay REALTOR® B's loan.

Following the closing, REALTOR® B recorded both the promissory note and the mortgage instrument. When Purchaser P learned of this, he filed an ethics complaint alleging that REALTOR® B had violated Article 4 by selling property in which she had a secured interest without revealing that interest to the purchaser.

The Hearing Panel agreed with Purchaser P and concluded that REALTOR® B's interest in the property should have been disclosed to Purchaser P or Purchaser P's representative in writing.

Case #1-23: Claims of Guaranteed Savings

(Adopted November, 1993 as Case #7-27. Revised April, 1994. Transferred to Article 1 November, 1994.)

In response to REALTOR® A's advertisement, "Guaranteed Savings! Don't purchase without representation," Mr. and Mrs. B signed an exclusive buyer representation contract with REALTOR® A. After viewing several homes accompanied by REALTOR® A, Mr. and Mrs. B decided to make an offer on 1234 Hickory. The seller did not accept the offer. The listing broker explained to REALTOR® A that the sellers were well-situated, spent much of their time at their vacation home, and had determined not to accept anything other than the listed price. REALTOR® A, in turn, explained that to Mr. and Mrs. B. In response to their questions, he indicated that there appeared to be little point in making anything other than a full price offer but that he would be happy to continue to show them other properties. Mr. and Mrs. B responded that they were not interested in other properties and had decided to make a full price offer on the Hickory Street residence. They did and their offer was accepted.

Following closing, and after discussing their transaction with friends, they wrote a letter to the Board of REALTORS® indicating that while they were pleased with the service provided by REALTOR® A, they thought that his claim of "guaranteed savings" was an exaggeration. After obtaining and reviewing a copy of the Code of Ethics, they filed a formal complaint alleging that Article 1, as interpreted by Standard of Practice 1-4, had been violated.

At the hearing, REALTOR® A defended his advertisement on the basis that as a buyer's agent he was able to aggressively negotiate purchase agreements on behalf of his clients whereas the listing broker or subagents, with their loyalty to the seller, could not. He also indicated that, in many instances, his buyer clients paid less, often substantially less, than buyers dealing through listing brokers, subagents, or even through other buyer agents. However, in response to questioning by Mr. B's attorney, REALTOR® A acknowledged that, while savings were not uncommon, they were not ensured in every instance, particularly in cases where the seller was determined to receive full price. "But I offered to show them other properties and, if we looked long enough, I am sure I could have found them a bargain," offered REALTOR® A in his defense.

The Hearing Panel disagreed with REALTOR® A's reasoning, concluding that while savings might be possible, REALTOR® A had been unable to demonstrate them in every instance and that this guarantee of savings was misleading. Consequently, his advertisement was in violation of Article 1.

Case #13-1: Preparation of Instrument Unrelated to Real Estate Transaction

(Reaffirmed Case #17-1 May, 1988. Transferred to Article 13 November, 1994. Revised November, 2001.)

Client A dropped in to see his friend, REALTOR® B, who had recently provided professional services to Client A's company. Client A said the company was sending him on business to the Far East; that the trip would involve a good deal of air travel in remote areas; and that he would like to leave a power of attorney with his wife while he was gone "just in case." He asked REALTOR® B if he would prepare a power of attorney for him and REALTOR® B said, "It's a simple document. I'll be glad to prepare one for you," and did.

This action came to the attention of the Grievance Committee of the Board of REALTORS®, which, after review, filed a complaint with the Board's Professional Standards Committee, charging REALTOR® B with a violation of Article 13 of the Code of Ethics.

REALTOR® B's defense was that he understood Client A's request to be essentially for a real estate service since from his general knowledge of Client A's personal affairs, he knew that Client A could have no reason for giving his wife a power of attorney except to put her in a position to act in real estate transactions. He contended that because his preparation of a legal document was directly related to real estate matters, he had rendered real estate, not legal, services to Client A.

It was the judgment of the Hearing Panel that REALTOR® B's defense was without merit; that by preparing the power of attorney, he had engaged in the practice of law in violation of Article 13 of the Code.

Case #10-3: Equal Professional Services by the REALTOR® (Revised November, 2001.)

REALTOR® A was contacted by Prospect C, a female head of household, concerning a home for sale which was advertised during the previous week in the newspaper's classified real estate section. When informed by REALTOR® A that the home in question had already been sold, Prospect C asked to be shown homes in the \$80,000 to \$90,000 price range with three bedrooms and located near schools and playgrounds. REALTOR® A proceeded to show Prospect C a number of homes which met her stated criteria for price range, size, and location, but Prospect C was interested in none of them.

Shortly thereafter, Prospect C filed a complaint with the Board of REALTORS® against REALTOR® A, complaining that he had violated Article 10 of the Code of Ethics by failing to offer equal professional service to her because she was a woman. Prospect C contended that she did not receive the same professional service from REALTOR® A that would have been afforded to a male head of household and home seeker with the same criteria for price range, size, and location.

The complaint was referred to the Grievance Committee and after its preliminary review and evaluation, the Grievance Committee referred it to the Secretary and directed that a hearing be arranged before a Hearing Panel of the Professional Standards Committee. The Secretary made the necessary arrangements and provided the proper notices and opportunity for response by REALTOR® A.

At the hearing, Prospect C expressed her complaint and concluded by saying, "It was obvious to me that REALTOR® A discriminated against me because I am a woman. In my opinion, he showed little interest in helping me to find a home."

REALTOR® A responded that he was sorry that Prospect C had that opinion, but that certainly he held no such attitude as charged. REALTOR® A advised the Hearing Panel that he routinely utilized a contact report for each prospect which includes identification information on the clients, provides data on the price range, type of house and location preferred by the prospect, and records the homes shown to the prospect with information on the price, type, and location of each home shown. REALTOR® A presented several such reports from his files including the report pertaining to Prospect C. Prospect C's report showed that several homes shown to her met the data as supplied by her.

The Hearing Panel concluded that REALTOR® A's documented evidence did, in fact, establish a clear position in which equal professional service had been offered and that no violation of Article 10 had occurred.

Case #3-5: Refusal to Extend Cooperation in Sale of New Homes

(Reaffirmed Case #22-5 May, 1988. Transferred to Article 3 November, 1994. Revised November, 2001.)

REALTOR® A, who operated a brokerage business in many areas of the city, was also a home builder. For the homes he built, he maintained a separate sales force and consistently refused to permit other REALTORS® to show his new homes.

This practice came to the attention of an officer of the Board of REALTORS® who made a complaint which was referred to the Professional Standards Committee by the Grievance Committee.

At the hearing, the Hearing Panel asked REALTOR® A to answer charges that his policy violated Article 3 of the Code of Ethics.

REALTOR® A's defense was that Article 3 requires REALTORS® to cooperate with other brokers "except when cooperation is not in the client's best interest." He contended that in selling his own new homes there was no client; that he was not acting in the capacity of a broker, but as owner-seller; and that, under the circumstances, Article 3 did not apply to his marketing the houses he built.

The Hearing Panel concluded REALTOR® A's defense was valid; that he was a principal; that Article 3 permitted him, as the builder-owner, to decide what marketing procedure would be in his best interest; and that although other REALTORS® might disagree with his decision, he was not in violation of Article 3.

Case #16-7: REALTOR®'s Refusal to Disclose Nature and Current Status of Listing to Another REALTOR®

(Revised Case #21-13 May, 1988. Transferred to Article 16 November, 1994.)

Client X listed his home with REALTOR® A under an exclusive right to sell listing agreement negotiated for a period of 90 days. During the first 75 days, REALTOR® A attempted various marketing strategies, but none were successful. Client X expressed disappointment and told REALTOR® A that he might seek another agency when the listing expired.

That same day, Client X expressed to a friend his dissatisfaction with REALTOR® A's lack of results, and mentioned that he might employ another agent. The friend, in turn, related this information to his friend, REALTOR® B, and suggested that REALTOR® B contact Client X. Aware that the property was currently listed with REALTOR® A, REALTOR® B called REALTOR® A, explained the information passed on to him, and inquired about the nature and current status of Client X's listing with REALTOR® A. Specifically, REALTOR® B asked REALTOR® A when the listing would expire and whether the listing was an "exclusive right to sell" or "open" listing. REALTOR® A responded that the listing was his and refused to discuss the matter further.

REALTOR® B then contacted Client X and explained that their mutual friend had informed him that Client X might be seeking another agent to sell his property. REALTOR® B told Client X that he did not wish to interfere in any way with Client X's present agency agreement with REALTOR® A, but that if Client X intended to seek another agent when his present listing agreement with REALTOR® A terminated, he would like to discuss the possibility of listing Client X's property. Client X invited REALTOR® B to his home that evening, and there they discussed the terms and conditions under which REALTOR® B would list the property upon termination of REALTOR® A's listing. REALTOR® B and Client X did not enter into any written agreement at that time. However, Client X requested REALTOR® B to meet with him the day following the expiration of REALTOR® A's listing, and Client X said that at that time he would execute a new listing agreement with REALTOR® B. The property did not sell before REALTOR® A's listing expired, and on the day following the expiration of REALTOR® A's listing, Client X listed the property with REALTOR® B. Upon learning of REALTOR® B's listing, REALTOR® A filed a complaint with the Board alleging that REALTOR® B violated Article 16 of the Code of Ethics.

At an ethics hearing duly noticed and convened after all due process procedures of the Board were followed, REALTOR® A presented his complaint that REALTOR® B had contacted REALTOR® A's client during the unexpired term of the client's listing agreement with REALTOR® A and had, therefore, violated Article 16 of the Code of Ethics.

REALTOR® B defended his action by pointing out that when he was informed that Client X was seeking another broker, he sought to respect the agency of REALTOR® A by calling him to inquire about the type and expiration date of the listing. He said he told REALTOR® A he would respect REALTOR® A's agency agreement, but that he needed to know this information to determine when, and under what circumstances, Client X would be free to list the property with another broker. REALTOR® A refused to discuss the listing status, stating that "it was none of his business." REALTOR® B cited Standard of Practice 16-4 in defense of his direct contact with Client X.

The Hearing Panel concluded that REALTOR® B had adequately respected the agency of REALTOR® A as interpreted by Standard of Practice 16-4. The panel's decision indicated that a listing broker should recognize that his refusal to disclose the type and expiration date of a listing to an inquiring broker frees the inquiring broker to contact the seller directly. If the contact with the seller is made under the provisions of Standard of Practice 16-4, the REALTOR® is also able to discuss the terms of a future listing on the property or may enter into a listing to become effective upon the expiration of the current listing.

The panel found REALTOR® B not in violation of Article 16.

Case #1-29: Multiple Offers to be Presented Objectively

(Adopted November, 2002.)

REALTOR® A listed Seller S's house. He filed the listing with the MLS and conducted advertising intended to interest prospective purchasers. Seller S's house was priced reasonably and attracted the attention of several potential purchasers.

Buyer B learned about Seller S's property from REALTOR® A's Web site, called REALTOR® A for information, and was shown the property by REALTOR® A several times.

Buyer X, looking for property in the area, engaged the services of REALTOR® R as a buyer representative. Seller S's property was one of several REALTOR® R introduced to Buyer X.

After the third showing, Buyer B was ready to make an offer and requested REALTOR® A's assistance in writing a purchase offer. REALTOR® A helped Buyer B prepare an offer and then called Seller S to make an appointment to present the offer that evening.

Later that same afternoon, REALTOR® R called REALTOR® A and told him that he was bringing a purchase offer to REALTOR® A's office for REALTOR® A to present to Seller S. REALTOR® A responded that he would present Buyer X's offer that evening.

That evening, REALTOR® A presented both offers to Seller S for his consideration. Seller S noted that both offers were for the full price and there seemed to be little difference between them. REALTOR® A responded, "I'm not telling you what to do, but you might consider that I have carefully pre-qualified Buyer B. There's no question but that she'll get the mortgage she'll need to buy your house. Frankly, I don't know what, if anything, REALTOR® R has done to pre-qualify his client. I hope he'll be able to get a mortgage, but you never can tell." REALTOR® A added, "Things can get complicated when a buyer representative gets involved. They make all sorts of demands for their clients and closings can be delayed. You don't want that, do you? Things are almost always simpler when I sell my own listings," he concluded.

Seller S, agreeing with REALTOR® A's reasoning, accepted Buyer B's offer and the transaction closed shortly thereafter.

Upset that his purchase offer hadn't been accepted, Buyer X called Seller S directly and asked, "Just to satisfy my curiosity, why didn't you accept my full price offer to buy your house?" Seller S explained that he had accepted another full price offer, had been concerned about Buyer X being able to obtain the necessary financing, and had been concerned about delays in closing if a buyer representative were involved in the transaction.

Buyer X shared Seller S's comments with REALTOR® R the next day. REALTOR® R, in turn, filed an ethics complaint alleging that REALTOR® A's comments had intentionally cast Buyer X's offer in an unflattering light, that his comments about buyer representatives hindering the closing process had been inaccurate and unfounded, and that REALTOR® A's presentation of the offer had been subjective and biased and in violation of Article 1 as interpreted by Standard of Practice 1-6.

At the hearing, REALTOR® A tried to justify his comments, noting that although he had no personal knowledge of Buyer X's financial wherewithal and while he hadn't had a bad experience dealing with represented buyers, it was conceivable that an overzealous buyer representative could raise obstacles that might delay a closing. In response to REALTOR® R's questions, REALTOR® A acknowledged that his comments to Seller S about Buyer X's ability to obtain financing and the delays that might ensue if a buyer representative were involved were essentially speculation and not based on fact.

The Hearing Panel concluded that REALTOR® A's comments and overall presentation had not been objective as required by Standard of Practice 1-6 and found REALTOR® A in violation of Article 1.

Case #2-3: Obligation to Disclose Defects

(Revised Case #9-9 May, 1988. Transferred to Article 2 November, 1994.)

Seller A came to REALTOR® B's office explaining that his company was transferring him to another city and he wished to sell his home. In executing the listing contract, Seller A specified that the house had hardwood floors throughout and that the selling price would include the shutters and draperies that had been custom made for the house. Seller A said that he would like to continue to occupy the house for 90 days while his wife looked for another home at his new location, and agreed that REALTOR® B could show the house during this time without making a special appointment for each visit. Accordingly, REALTOR® B advertised the house, showed it to a number of prospective buyers, and obtained a purchase contract from Buyer C. Settlement was completed and at the expiration of the 90-day period from the date of listing, Seller A moved out and Buyer C moved in.

On the day that Buyer C moved in, seeing the house for the first time in its unfurnished condition, he quickly observed that hardwood flooring existed only on the outer rim of the floor in each room that had been visible beyond the edges of rugs when he inspected the house, and that the areas that had been previously covered by rugs in each room were of subflooring material. He complained that REALTOR® B, the listing broker, had misrepresented the house in his advertisements and in the description included in his listing form which had specified "hardwood floors throughout." Buyer C complained to REALTOR® B, who immediately contacted Seller A. REALTOR® B pointed out that the house had been fully furnished when it was listed and Seller A had said that the house had hardwood floors throughout. Seller A acknowledged that he had so described the floors, but said the error was inadvertent since he had lived in the house for ten years since it had been custom built for him. He explained that in discussing the plans and specifications with the contractor who had built the house, the contractor had pointed out various methods of reducing construction costs, including limiting the use of hardwood flooring to the outer rim of each room's floor. Since Seller A had planned to use rugs in each room, he had agreed, and after ten years of living in the house with the subflooring covered by rugs, he had "simply forgotten about it."

REALTOR® B explained, however, that Seller A's description, which he had accepted, had resulted in misrepresentation to the buyer. "But it's a small point," said Seller A. "He'll probably use rugs too, so it really doesn't make any difference." After further pressure from REALTOR® B for some kind of adjustment for Buyer C, Seller A concluded, "It was an honest mistake. It's not important. I'm not going to do anything about it. If Buyer C thinks this is a serious matter, let him sue me."

REALTOR® B explained Seller A's attitude to Buyer C, saying that he regretted it very much, but under the circumstances could do nothing more about it. It was at this point that Buyer C filed a complaint with REALTOR® B's Board.

At the hearing before a Hearing Panel of the Professional Standards Committee of REALTOR® B's Board, during which all of these facts were brought out, the panel found that REALTOR® B had acted in good faith in accepting Seller A's description of the property. While Article 2 prohibits concealment of pertinent facts, exaggeration, and misrepresentation, REALTOR® B had faithfully represented to Buyer C information given to him by Seller A. There were no obvious reasons to suspect that hardwood floors were not present throughout as Seller A had advised. REALTOR® B was found not in violation of Article 2.

Case #1-6: Fidelity to Client's Interests

(Originally Case #7-7. Reaffirmed May, 1988. Transferred to Article I November, 1994. Revised November, 2001.)

REALTOR® A managed an apartment building owned by Client B. In his capacity as property manager, REALTOR® A received a written offer to purchase the building from Buyer C. REALTOR® A responded that the building was not for sale. A few days later Buyer C met Client B and told him that he thought he had made an attractive offer through his agent, and indicated that he would be interested in knowing what price would interest Client B. Client B answered that he had received no offer through REALTOR® A and asked for the details.

Client B then filed a complaint against REALTOR® A with the local Board of REALTOR® charging failure to represent and promote his interests. His complaint specified that while REALTOR® A had been engaged as a property manager, he had at no time told him not to submit any offers to buy, and that in the absence of any discussion whatever on this point, he felt that REALTOR® A should have recognized a professional obligation to acquaint him with Buyer C's offer which, he stated in the complaint, was definitely attractive to him. REALTOR® A was notified of the complaint and directed to appear before a panel of the Board's Professional Standards Committee. In his defense,

REALTOR® A stated that his only relationship with Client B was a property manager under the terms of a management contract; that he had not been engaged as a broker; that at no time had the client ever indicated an interest in selling the building; that in advising Buyer C that the property was not on the market, he felt that he was protecting his client against an attempt to take his time in discussing a transaction which he felt sure would not interest him.

It was the conclusion of the Hearing Panel that REALTOR® A was in violation of Article 1; that in the absence of any instructions not to submit offers, he should have recognized that fidelity to his client's interest, as required under Article 1 of the Code of Ethics, obligated him to acquaint his client with a definite offer to buy the property; and that any real estate investor would obviously wish to know of such an offer.

Case #12-10: REALTOR® Advertising Free Market Analysis

(Originally Case #9-21. Revised and transferred to Article 19 as Case #19-13 May, 1988. Transferred to Article 12 November, 1994. Revised November, 2001.)

REALTOR® A advertised in the local newspaper as follows: "Free Market Analysis With No Obligation." REALTOR® A also had certificates printed reading: "This will entitle the bearer to one FREE Comparative Market Analysis with no obligation." The certificate carried the name of REALTOR® A and his firm. REALTOR® B presented a written complaint to the Secretary of the Board filing a charge against REALTOR® A of an alleged violation of Article 12 of the Code of Ethics.

The matter was referred to the Grievance Committee which concluded the matter should be considered by a panel of the Professional Standards Committee. A hearing was convened with both REALTOR® A and REALTOR® B present.

REALTOR® A advised the Hearing Panel that he had placed the advertisements and provided the certificates in good faith. He stated he felt his ads did present a "true picture," and were not unethical. When the panel asked if his offering of a "free market analysis" was contingent upon his obtaining a listing or commission, REALTOR® A answered in the negative. He pointed out that he charged no fee for the service and provided it as represented on the certificates.

In the absence of any evidence indicating that the advertising by REALTOR® A was misleading, the Hearing Panel concluded that such advertising by REALTOR® A is not prohibited by the Code of Ethics nor can such advertising be prohibited by a Board of REALTORS® unless it presents less than a "true picture." However, if a charge is filed against a REALTOR® alleging violation of Article 12 and there is a hearing before the Professional Standards Committee, determination may properly be made of the truth of any representations made.

The Hearing Panel concluded that REALTOR® A had demonstrated that his ads presented a "true picture" and that he was not in violation of Article 12.