

Learning Objectives

After this chapter, you will be able to

- Identify and define the three basic types of ethics.
- Name the three elements of the Canons of Professional Ethics and Conduct.
- Define competency and why it is important in the real estate profession.
- Explain how to handle an unrepresented buyer.



Ethics Requirements for Real Estate Professionals

Remember back in Real Estate 101 when you learned about your fiduciary duties? Was there also a conversation about your ethical duties to the clients? To consumers? To other professionals?

There are three basic types of ethics.

- * Personal Ethics – integrity and responsibility
- * Business Ethics – industry standards/expectations
- * Legal Ethics – required by law

Personal ethics relate to the impression you want to present to your peers and consumers. What level of integrity is important to you? Is it important that others see you as responsible? A strong sense of what is right

and wrong is a foundation of your personal ethics code.

Personal ethics are reflected in your level of professionalism. Professionalism is always a hot topic in business. Professionalism is something that is often difficult to identify and regulate, as it is different from one person to the next. We often disagree about what is appropriate professional behavior and what is not.

When considering what is professional, an excellent starting place is empathy. How would you feel in the other person's position? What is their perspective?

Consider this...

John has 12 listings and the market is HOT! Every listing gets at least three offers and many get more. He is so busy that he doesn't have time to respond to all of the text, emails and phone calls from buyer agents asking questions about his listings. (Especially since so few of those calls turn into anything. After all, if their buyer is serious, they'll submit an offer.)

Jane is working with a buyer who is interested in one of John's listings. The market is so tight for buyers that her clients are getting discouraged. They've submitted four offers, all at list price or above, and still don't have a contract. They are stressing. They like John's listing but are concerned about previous foundation work. They want to know if there is a transferrable warranty on the work before they waste everyone's time with an offer.

Jane has reached out to John by text, email and voicemail but cannot get a response. Her buyers are doubting her. After all, it doesn't make sense that the listing agent wouldn't be working to get the house sold. Right?

1. Can you understand John's point of view?
2. Can you understand Jane's point of view?
3. Can you understand how Jane's clients are feeling?
4. How could John and Jane handle this situation better?

Business ethics are guidelines agreed upon by members of a particular business or even an industry. Generally, these guidelines are put forth as Codes. Doctors, lawyers, some real estate associations and other professionals often subscribe to a Code of Ethics.

Legal ethics in real estate are those rules that are required by the Texas Real Estate License Act (TREL), the Rules of the Commission and other various Texas codes and federal acts & requirements.

Most brokers have a set of business ethics within their brokerages. Sometimes they are in writing but in every case, the sales staff is likely to follow the example of leadership. A Broker who expects their staff to do business at a level of professionalism that they do not subscribe to themselves will often be disappointed.

The Texas Administrative Code lays out what we refer to as the Canons of Professional Ethics and Conduct.

They are:

- * Fidelity

This has to do with our fiduciary duties. We have a primary obligation to our clients and their best interest. Our own interests are never placed above that of the client. This means our position should be known, clearly, to all parties. We are required to be honest with all parties whether we represent them or not. In addition, license holders must be faithful and observant to the trust placed in them by the consumer. Always remember that though an agent may be working on multiple transactions, the consumer is focused on one and it is of vital importance to them. License holders must treat the transaction and the parties with great respect.

- * Integrity

Real estate professionals have an obligation to avoid misrepresentation of anything while performing their duties. This means consistent exercise of prudence and caution when serving the public.

- * Competency

A real estate license alone does not determine one's competency in the market place. Competency is an all-inclusive term for knowledge and understanding of anything a reasonable person would consider when buying or selling real estate. What is happening in the neighborhood as far as construction, schools, property related lawsuits, drainage issues, etc. are all topics a reasonable buyer would want to know about. A competent professional can have these conversations and direct their clients to sources for accurate information on topics they are concerned about. Competency often means knowing what questions to ask. Your real estate license, a Multiple Listing Service (MLS) or even the location of your brokerage are not the determining factor of geographic competence.

Competency can be geographical or by discipline. Discipline has to do with the type of real estate you have knowledge of. A residential broker/agent likely is not competent to sell raw land, commercial properties, industrial parks or etc. Competency means getting the proper training whether it is residential sales, property management, farm and ranch, raw land, leasing, industrial or any other discipline.

Consider this...

Greg is a relatively new commercial agent working for a commercial real estate firm. He does not have vast knowledge of any marketplace. So, when his brother says he is moving back to Texas and only about 1 ½ hours from Greg, he offers to represent him on his home purchase. After all, it is the same Multiple Listing Service and residential sales are the easiest.

1. What information, if any, should Greg share with his brother?
2. Is Greg putting his brother's interest before his own?
3. What is the best way for Greg to have handled this situation?

Unrepresented Buyers

An unrepresented buyer calls you on one of your listings, they insist upon seeing the property as soon as possible, and you set the appointment and show the property. Now what?

The law says you will provide the Information About Brokerage Services (IABS) form to this buyer. The law also requires that you disclose who you represent orally or in writing, at first contact. Make sure the buyer understands that you represent the seller and only the seller and the buyer has several choices regarding representation. For example, if the buyer wants representation, your broker could find someone in your brokerage to represent them as an appointed person by the intermediary (your broker), or the buyer could find an agent from another company, or the buyer could hire an attorney to represent them. The buyer may insist on not being represented. Often a buyer may not want to be represented believing they will save money if there is no other agent involved. How these types of situations are handled is a decision between you and your broker.

A buyer can be unrepresented; however, be sure you are not caught in a trap of wanting to help them which causes you to give advice or assistance in ways that could be considered representation of the buyer.

No Thank You. Just Looking.

Christa is a listing agent and has a property listed. Today she gets a call from unrepresented buyers, Steve and Suzie, who want to see the property. She agrees to meet them at the home at 3:30 pm.

Later at the property:

Christa: Hi, I am Christa with We Sell It All Realty.

Steve: Good afternoon, I am Steve. This is my wife, Suzie and our new baby Franky.

Christa: Oh my goodness, he is soooooo cute!!

Suzie: Franky is a girl.

Christa: My apologies, well, here is a form I have to give you. I need you to sign it and return it to me before we leave. I have made an extra copy for you.

Suzie: I want to read it first.

Christa: Certainly, it is not a contract or anything just a form required by the state or Texas REALTORS® or someone.

Steve: Ok, could we see the house?

Suzie: This form is all about representation. Didn't Steve tell you we do not want anyone to represent us?

Christa: I know you told me you did not want to be represented, however, if I show you this house it will be an intermediary thing and I will have to have this signed for my broker.

Suzie: Inter-what? What are you talking about? We never had to sign anything to see a house and we are not starting now...

Christa: Oh well, okay, let's go, we can worry about all this paperwork stuff later.

DISCUSSION

1. What are Christa's choices if unrepresented buyers don't want to sign the IABS?
2. How would you have handled this? Could there be additional questions Christa could have asked?