

MORE ABOUT COMMUNICATION...

Real Estate Commission staff receive numerous daily telephone calls and emails from consumers, as well as from licensees, asking questions about real estate brokerage requirements in Maine. Most of these communications are “general” in nature or simply informational. Following are common topics raised with Commission staff:

“My agent promised that I would get my earnest money deposit back....” Did you correctly advise the buyer about their EMD? Do you fully understand what is necessary in order to make disbursement of an EMD, or what the procedure is for dealing with a dispute regarding disbursement? See Chapter 400 of the Commission rules and speak with your designated broker if uncertain. Buyers, and sellers, need to understand the process and the risks.

Recently, many buyers in transactions have elected to purchase without conducting due diligence inspections of the properties. After closing, when latent defects in the property are found (pet stains, ants, mice, minor plumbing leaks, etc.) these buyers become upset because that they did not fully understand disclosure requirements and their own obligation to assess the property’s physical condition. Buyers must understand the risks in order to make sound, informed decisions.

- Does the client really understand what they are signing/what you are telling them? Take the time to find out.
- Do you really understand what your client is signing/what you are telling them?
- Don’t assume that the client/customer has knowledge that they may not.
- You are the professional. Explain, educate and set reasonable expectations.
- When a problem or conflict arises - don’t ignore it. Be proactive, not reactive. Address problems in a timely manner by effectively communicating and negotiating solutions before they escalate.

Important take-aways from recent investigations which resulted in licensees being disciplined: Access to property listed for sale (i.e. lockbox information, etc.) should not be provided without the express permission of the seller or listing agent. The safety and security of property that has been listed for sale should be paramount to licensees, whether acting as a seller or a buyer agent. Home security/surveillance systems are prevalent. Act responsibly and advise buyer clients that confidential information should not be discussed openly while touring property.

FRAUD/SCAM ALERT

The FBI and the U.S. Secret Service have observed a sharp increase in reports of real estate fraud. This type of fraud is happening here in Maine and across the country. Criminals are posing as real property owners and through a series of impersonations are negotiating the sale of properties. The criminal searches public records to identify real estate, often vacant lots or rental property that is free of mortgage or other liens, and the identity of the property owner.

The criminal, then posing as the property owner, contacts a real estate agent to list the targeted property for sale, requesting that it be listed below current market value in order to generate immediate interest. The criminal will likely also demonstrate preference for a cash buyer. All communication is electronic or by telephone, not in person.

The criminal is “unable,” or refuses, to sign documents in person and after accepting an offer, requests a remote notary signing. The criminal (or co-conspirator) also impersonates the notary and provides falsified documents to the title company or closing attorney.

How to prevent:

- Independently research the identity of the property seller utilizing internet search engines or other resources. Verify telephone numbers or email addresses provided by the prospective “seller.” Recent pictures or contact information may be helpful.
- Request an in-person or virtual meeting. Request to see their driver’s license or other government issued identification.
- Be on alert when a seller quickly accepts an offer below market value for payment in cash and/or closing quickly.
- Do not allow a seller to arrange their own notary closing. Use trusted title companies and attorneys for closings and exchange of funds.

If you believe that you have been contacted by a fraudster, or fallen victim to some other type of cybercrime, file a complaint with local law enforcement and the FBI’s Internet Crime Complaint Center (IC3) (<https://www.ic3.gov/>). Your information may be invaluable to helping bring cybercriminals to justice.