

Reduce your risk of Being Sued



12 RISK REDUCTION TECHNIQUES

Controlling your errors & omissions should be the mission of all real estate professionals.

That's why we've compiled a list of 12 risk reduction techniques to minimize your legal liability and maximize your earning potential.

TIP 1: Obtain a written seller's disclosure form or waiver. When drawing up papers for a home property, always make sure you obtain and review this disclosure or waiver form. Be sure to verify that the information contained in the report is consistent with what you know about the property and advise the seller to update the disclosure as needed after walk-throughs, inspections, etc.

TIP 2: View the property. Before showing a home, walk the property and point out any "red flags," such as stains on the ceiling, a leaning retaining wall, or uneven floors. Never interpret a property's condition. Suggest that your clients obtain professional inspections.

TIP 3: Provide full disclosure (if material in nature). Make sure buyers are aware of any potential problem areas. For example, if the vacant lot next door will be developed or if a property tends to flood, these facts need to be disclosed to the buyers in writing.

TIP 4: Disclose all conflicts of interest in writing. Claims filed alleging failure to disclose dual agency typically have a high success rate for plaintiffs and result in sizable settlements. To avoid this type of situations, just remember the four Ds! **Decide** whom you will represent. **Disclose** this to all parties. **Document** your decision in writing. And **Do** as you say.

TIP 5: Never act outside the area of your expertise. Even if a property is new construction, provide a list of professionals for the buyers to hire to inspect the home, test for mold and/or pests, and assess the septic system as well. If the buyers forego inspections, document that fact and obtain a waiver.

TIP 6: Follow pre-established office procedures. Be sure to adhere to your office's pre-established procedures or checklist during transactions to ensure you are maintaining a well-documented file.

TIP 7: Familiarize yourself with fair housing laws. Become familiar with and educate buyers and sellers about these laws and provide equal service to all.

TIP 8: Review the Code of Ethics regularly. To find the most current Code of Ethics and Standards of Practice, visit the National Association of REALTORS® at www.realtor.org.

TIP 9: Seek assistance when you're not sure. It is best to take the time to look up the facts or ask someone who would know the answer. Just remember to follow-up with them and document your findings.

TIP 10: Report all claims and incidents to your insurance company promptly. Late reporting may jeopardize your E&O coverage!

TIP 11: Avoid overstated adjectives. When discussing, marketing, or otherwise promoting a property, avoid adjectives (such as "renovated") that could exaggerate improvements to a property. Be certain the information you are providing is accurate.

TIP 12: Maintain a well-documented file. This should include the date and time of all meetings or phone conversations, emails and faxes, and records of all verified information, contracts, disclosures, waivers, and closing documents with appropriate signatures. Never sign anything for your clients or customers. (WARNING: Do not destroy your file following a closing. Some states have statutes of limitations of 10 years for breach of contract, and many lawsuits are brought years after a transaction has closed.)



For more information: pearlinsurance.com/eo | 800.447.4982

Pearl Insurance's E&O program is underwritten by XL Group, rated "A" (excellent) by A.M. Best. Our program is sponsored by over 20 national, state, and local real estate associations. In addition to providing state-of-the-art risk management tools and services to help you reduce your potential liabilities, we also offer many other innovative coverage features. Please contact a Pearl Insurance representative for a description of policy coverages, amounts, conditions, limitations, and exclusions.