

DISCLOSE!
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1. TRUE OR FALSE?

A seller must disclose ALL defect in a property to a prospective purchaser.

2. TRUE OR FALSE?

Puffery is not a form of misrepresentation.

3. TRUE OR FALSE?

Radon is the gaseous form of decaying granite.

4. TRUE OR FALSE?

The disclosure of cosmetic repairs is not required by law or recommended.

5. TRUE OR FALSE?

To prevent liability, clients should make independent decisions about the use of experts and the licensee should not make ANY recommendations.

6. TRUE OR FALSE?

Article 2 of the REALTOR® Code of Ethics limits disclosure to the property and does not require disclosure about the transaction.

7. TRUE OR FALSE?

A real estate licensee must disclose their status as a licensee when purchasing a property, even if the license is inactive.

8. TRUE OR FALSE?

If available, a seller should provide a copy to the purchaser of the seller disclosure form received when the seller purchased the property.

9. TRUE OR FALSE?

No disclosure is required when a property is owned by a lender or investor.

10. TRUE OR FALSE?

When it comes to disclosure, a seller should be as transparent as a fat person in yoga pants.

DEFINITIONS

- Latent Defect
 - A flaw which is _____, or cannot be readily observed by a person without _____

DEFINITIONS

- Patent Defect
 - A flaw which is not _____ and a person does not need to have special training to _____ as a flaw

DEFINITIONS

- Misrepresentation
 - A false representation of a _____
 - OR
 - A failure to disclose a known property _____
 - Which causes a party to suffer “ _____ ”

DEFINITIONS

- Material Fact
 - Information a _____ would consider in determining whether to purchase and, if so, how much to offer

DEFINITIONS

- Active Fraud
 - Having _____ to deceive

DEFINITIONS

- Passive Fraud
 - Staying _____ or failing to _____

DEFINITIONS

- Negligent Non-Disclosure
 - Failure to share _____ which should be within the base of knowledge of a _____ trained person

DEFINITIONS

- Negligent Misrepresentation
 - Lack of _____
 - Failure to _____
 - Does not require knowledge or intent

DEFINITIONS

- Negligent Advice
 - Providing guidance which is not _____
_____ under the circumstances for
a person of typical training

DEFINITIONS

- Dual Capacity
 - Licensee and _____ in the same
transaction
 - Must disclose licensed status, even if

DEFINITIONS

- Material Relationship
 - Could be familial, business, or _____
 - Must _____ if it would (or could be
reasonably interpreted) to _____ the
ability of the agent to fairly
_____ the client

DEFINITIONS

- Puffery
 - Telling the _____ but making the
_____ sound fascinating
 - Must have a basis in truth
 - An obvious _____
 - Puffery is not _____

PENALTIES

- Actual Damages
 - _____ loss due to actions

PENALTIES

- Punitive Damages
 - Enough pain to keep the _____ party from duplicating the effort

PENALTIES

- Rescission of Transaction
 - Putting everything back to “_____”

PENALTIES

- Suspension or Revocation of License by the regulatory body
 - Suspension is _____
 - Revocation is _____

PENALTIES

- Fines by the regulatory body

PENALTIES

- Disciplinary Action through the Code of Ethics
 - Reprimand
 - Education
 - Expulsion from _____
 - Suspension from _____
 - Up to \$ _____ fine

LIMITING LIABILITY

- Buffer Your Answer
 - “To the best of my knowledge...”
 - “If it were me, I would not be concerned, however...”
 - “I am not a surveyor, but...”
 - “You may want to contact an attorney. If it were me,...”

LIMITING LIABILITY

- Recommend Experts
 - Recommend the use of, rather than _____
 - If providing names, do so in writing and use _____ language

LIMITING LIABILITY

- Use the Seller Disclosure Form
 - Form may or may not be _____
 - Should be used even if the seller has no _____
 - As the licensee, _____ complete or even act as a _____.

LIMITING LIABILITY

- Disclose! Disclose!! Disclose!!!
 - Miss on the side of _____
 - Treat all defect as _____
 - Rather be accused of _____ than failure to disclose

LIMITING LIABILITY

- Document! Document!! Document!!
 - Use forms as available
 - Create your own forms as needed and get _____
 - Send email to _____ conversations

LIMITING LIABILITY

- Counsel Your Client/Customer
 - Spending time at beginning saves time and money later
 - Use forms
 - Control with _____

LIMITING LIABILITY

- Be Vigilant and Aware
 - Listen to _____ as much as to _____
 - Read!

LIMITING LIABILITY

- Don't Make Claims About the Future
 - "May", "Could", "Hope" rather than "Will"
 - Speak in the present and past, not the _____
 - Don't predict life of items

LIMITING LIABILITY

- Recommend Use of an Inspector
 - No _____ or minimum standards for an inspector in many states
 - Recommend _____ rather than a specific person or company

DEFECTS...OR NOT?

- Physical
 - Knowledge of latent defects _____ be disclosed
 - If not sure, treat as _____

DEFECTS...OR NOT?

- Psychological
 - i.e. _____ on the property
 - Stigmatized property laws
 - No liability to disclose but must answer questions truthfully? Know your states law!

DEFECTS...OR NOT?

- Major Repairs
 - A _____ is not a defect; the defect has been fixed
 - _____ be disclosed because of _____ damage

DEFECTS...OR NOT?

- Cosmetic Repair
 - While not _____, should be disclosed to _____ claims of concealing defect

DEFECTS...OR NOT?

- Neighborhood Crime
 - Public knowledge
 - Recommend buyer/tenant research whatever is a concern
 - Provide _____

DEFECTS...OR NOT?

- Lead
 - Lead has not been used in paint since _____
 - ALWAYS use Lead Based Paint Exhibit?
 - Contaminated _____

DEFECTS...OR NOT?

- Mold
 - Caused by _____
 - Many areas of the country are “moist”
 - Some people have toxic reactions

DEFECTS...OR NOT?

- Asbestos
 - Common construction material in the past
 - Carcinogenic
 - Must be _____

DEFECTS...OR NOT?

- Radon
 - Forms from decaying _____
 - Can be carcinogenic if concentrated levels are reached
 - Can typically be mitigated by _____

DEFECTS...OR NOT?

- Underground Tanks
 - Former service stations
 - Farms
 - If contents leach into the soil, may cause _____

DEFECTS...OR NOT?

- Transaction Facts
 - Divorce?
 - Financing by buyer?
 - Article ____ of REALTOR® Code of Ethics

DEFECTS...OR NOT?

- Burglary during contract period
 - Should buyer be made aware?
 - What are pro's and con's?

MUST DISCLOSE

- Variable Rate Commission (VRC)
- VRC differential (if asked)
- Listing is under contract
- Knowledge of latent defect
- If you wrote an offer in a multiple offer scenario (if multiple offers disclosed and asked)
- Adverse facts about property or transaction
- Material relationships

SHOULD DISCLOSE

- Damage repair
- Cosmetic repair
- Lead disclosure
- All brochures available
- Any property changes
- Neighborhood crime (links for databases)

LIMITING LIABILITY

- Document _____ in writing
- Use state and company forms
- Conduct _____ sessions
- Control _____
- Be the _____ of the _____ but never the _____
- Disclose! Disclose!! Disclose!!!

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FALSE

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A real estate licensee in Georgia does not have fiduciary duties to the client.

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ABSOLUTELY TRUE!!!!!!

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