

SLIDE 5 – Broker/Associate Role in Property Transfers

In this section we will talk about the broker and sales associate role in property transfers. There are aspects of ethics and law that dictate how salespersons should market and initiate listing and sales transactions. It's easy to cross the line from sales tactic to fraud if not aware of all aspects of the property in question.

SLIDE 6

Opinion of title – F.S. 475.25(2)(j)

A real estate licensee is subject to disciplinary action for rendering an opinion that the title to any property sold is good or merchantable.

Real estate agents and brokers are educated on aspects of real estate law as part of the testing requirements for their state real estate license. They understand why clear title is so important, however rendering an opinion on property title and ownership rights crosses into the realm of practicing law. Leave such activity to title experts and lawyers.

SLIDE 7

Puffing

When a broker or sales associate exaggerates a property's benefit it is referred to as puffing.

Statements of opinion must be factual and not misrepresent property features.

For example, you might render an opinion on a residential kitchen by saying "it has the latest features." - which is true of most modern kitchens. However, if you say the kitchen includes appliances when it does not, that is a misrepresentation and exposes the licensee to disciplinary action.

SLIDE 8

Misrepresentation as fraud – F.S. 455.227(1)(a)

When a broker or sales associate misrepresents a property by failing to disclose certain facts or by making false statements that causes a material loss to another party, this becomes fraud and is punishable to the extent the law allows.

Depending on the circumstance this could be considered fraud, breach of contract or a breach of trust.

SLIDE 9

Unauthorized practice of law– F.S. 454.23

Licensees practicing law by offering title opinion or writing addendums to contracts is illegal in Florida. It is considered a felony of the third degree.

Brokers or agents should never discourage a client or customer from seeking legal advice.