

Case #2:

REALTOR® Alice listed Seller Simpson's vintage home. Buyer Brian submitted an offer to purchase that was contingent on a home inspection. The home inspection disclosed that the gas furnace needed replacement because unacceptable levels of carbon monoxide being emitted.

Based on the home inspection, Buyer Brian chose not to proceed with the purchase.

REALTOR® Alice told Seller Simpson that the condition of the furnace and the risk that it posed would need to be disclosed to other potential purchasers. Seller Simpson disagreed and instructed REALTOR® Alice not to say anything about the furnace to other potential purchasers. REALTOR® Alice replied that she could now withhold such information as it would be against the Code of Ethics, so Seller Simpson terminated their listing agreement.

Three months later, REALTOR® Alice noticed that Seller Simpson's home was back on the market but now listed with REALTOR® Zach. REALTOR® Alice contacted Zach and asked whether there was a new furnace in the home. REALTOR® Zach replied, "Why no, why do you ask?" REALTOR® Alice informed him of the home inspection's findings and suggested that he check with the seller to confirm repairs had been made.

When REALTOR® Zach raised the question to Seller Simpson, they became irate and said "That is none of his business." Zach advised the seller that potential purchasers would have to be told about the condition of the furnace since it posed a serious potential health risk.

Seller S filed an ethics complaint against REALTOR® Alice, alleging that the physical condition of their property was confidential, that Alice had an ongoing duty to respect confidential information gained in the course of their contractual relationship and that Alice breached their confidence by sharing the information about the furnace.

- 1. Do you think REALTOR® Alice breached confidentiality by disclosing the defects? Explain your answer:**

Case Study #2 ANSWER:

1. The hearing panel disagreed with Seller Simpson. They noted that while REALTORS® do have an obligation to preserve confidential information gained during any relationship with the client; Standard of Practice 1-9 specifically proves that latent material defects are not considered “confidential information” under the Code. Therefore, the panel found no violation of Article 1 and in favor of REALTOR® Alice.

