

Case #3:

REALTOR[®] and homebuilder Andre showed one of his newly constructed houses to Buyer Betty. In the discussion, the buyer observed that some kind of construction was beginning nearby. She asked Andre what it was, to which he replied “I really don’t know, but I believe it’s the attractive new shopping center that has been planned for this area.” Following the purchase, Buyer Betty learned that the new construction was to be a bottling plant and that the adjacent area was zoned industrial.

Buyer Betty filed a complaint with the Board of REALTORS[®] against REALTOR[®] Andre for failure to disclose a pertinent fact, and that the proximity of the bottling plant would have caused her to reject the purchase of the home. The Grievance Committee referred the complaint for a hearing before the Professional Standards Committee.

During the hearing, REALTOR[®] Andre’s defense was that he had given an honest answer to Betty’s question. At the time, he had no positive knowledge about the new construction. He knew that other developers were planning an extensive shopping center in the general area and had simply made a general guess. He pointed out that he had prefaced his response by saying “he didn’t know the answer.”

1. Did the panel find REALTOR[®] Andre in violation? Explain your answer:

Case Study #3 ANSWER:

1. The hearing panel concluded that Buyer Betty’s question was related to a pertinent fact, that REALTOR[®] Andre’s competence required that he know the answer or, if he didn’t, he should not have ventured a guess but should have made a commitment to get the answer. The hearing panel also noted that although REALTOR[®] Andre had prefaced his response with “I don’t know,” he proceeded to respond causing Buyer Betty to be justified in relying on his response. REALTOR[®] Andre was found in violation of Article 2.

