

Case #2: Obligation to Determine Pertinent Facts

REALTOR® Alan, a home builder, showed one of his newly constructed houses to Buyer Bill. In discussion, the buyer observed that some kind of construction was beginning nearby. He asked REALTOR® Alan 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 Bill learned that the new construction was to be a bottling plant, and that the adjacent area was zoned industrial. Charging that the proximity of the bottling plant would have caused him to reject purchase of the home.

Buyer Bill filed a complaint with the Association of REALTORS® charging REALTOR® Alan with unethical conduct for failing to disclose a pertinent fact. The Grievance Committee referred the complaint for a hearing before a Hearing Panel of the Professional Standards Committee. During the hearing, REALTOR® Alan’s defense was that he had given an honest answer to Buyer Bill’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 ventured a guess. He pointed out, as indicated in Buyer Bill’s testimony, that he had prefaced his response by saying he didn’t know the answer to this question.

ANSWER:

The hearing panel concluded that Buyer Bill’s question had related to a pertinent fact and that REALTOR® Alan’s competence required that he know the answer or, if he didn’t know the answer he should not have ventured a guess. The hearing panel also noted that although REALTOR® Alan had prefaced his response with “I don’t know”, he had in fact responded with an answer and Buyer Bill was justified in relying on his response.

The hearing panel found REALTOR® Alan in violation of Article 2.