

## **The Realtor® Code of Ethics Continues To Evolve**

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At the very heart of Realtor® membership is the contractual obligation of every Realtor® to abide by the Realtor® Code of Ethics and the Standards of Practice of the National Association of Realtors®. Each year on January 1, the Realtor® Code of Ethics is republished by NAR to reflect changes necessitated by the changing dynamic in our industry.

### **Why Have a Code of Ethics?**

Customarily, a Code of Ethics is intended as a guide to the persons who agree to be bound by the Code and to fulfill a specific mission reflecting values, principles and standards of conduct.

A Code of Ethics also serves as an open disclosure to the public about the way an organization operates. It reflects the commitment of the persons governed by the Code to a set of ideals and ethical standards which hopefully guides each individual through the dilemmas of daily business life.

We live in a culture in which the norm is criticism, finger pointing and different perceptions about what is appropriate conduct. In contrast, the Realtor® Code of Ethics has evolved over a period of 99 years and amendments to the Realtor® Code of Ethics have been made in every year since 1989.

The Realtor® Code of Ethics sets Realtors® apart from many other professions. Realtors® are expected to embrace social responsibility and "...dedicate themselves to maintain and improve the standards of their calling and share with their fellow Realtors® a common responsibility for ... integrity and honor".

The amendments to the Realtor® Code of Ethics effective as of January 1, 2012 continue to reflect these lofty goals.

### **What Provisions of the Realtor® Code of Ethics Were Changed as of January 1, 2012?**

#### **Article 15:**

**"Realtors® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices."**

#### Standard of Practice 15-2

**“The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses and their business practices includes the duty to not knowingly or recklessly publish, repeat, retransmit, or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g., the Internet), or by any other means.”**

#### Standard of Practice 15-3

**“The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to publish a clarification about or to remove statements made by others or electronic media the Realtor® controls once the Realtor® knows the statement is false or misleading.”**

#### Article 17:

**“In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationships as REALTORS®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of their Board rather than litigate the matter.”**

**“In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.”**

**“The obligation to participate in mediation or arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate or arbitrate and be bound by any resulting agreement or award.”**

#### Standard of Practice 17-2:

**“Article 17 does not require REALTORS® to mediate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to mediate through the Board’s facilities.**

**The fact that all parties decline to participate in mediation does not relieve REALTORS® of the duty to arbitrate.”**

**“Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board.”**

**Standard of Practice 1-16:**

**“REALTORS® shall not use, or permit or enable others to use, listed or managed property on terms or conditions other than those authorized by the owner or seller.”**

**What Has Changed in Article 15?**

The changes to the Realtor® Code of Ethics effective January 1, 2012 eliminate the term “competitor”. The broader term, “real estate professionals” now appears in Article 15, in Standard of Practice 15-2 and in Standard of Practice 15-3.

The clear significance of these changes is that we live in a culture in which disparaging others has become an art form. Realtors® are asked to abide by an ideal which encourages recognition, appreciation and cooperation for and with clients, customers, the public, other Realtors® and other knowledgeable professionals who participate in real estate. This standard in itself, sets Realtors® apart.

**Article 17**

The change made to Article 17 is quite dramatic. Until December 31, 2011, Realtors® had an obligation to arbitrate their disputes and could elect mediation. As of January 1, 2012, Realtor® Boards and Associations have the right to compel mediation prior to submitting a matter to a panel of arbitrators. The change to Article 17 states that if a Board of Realtors® so requires, “Realtors® shall mediate the dispute...”.

Even more significantly, if the clients of Realtors® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, “Realtors® shall mediate or arbitrate those disputes in accordance with the policies of the Board...”.

**Article 1**

A new Standard of Practice 1-16 has been added to the Realtor® Code of Ethics. This Standard of Practice now requires that Realtors® not use or permit a property that they have listed or manage to be used on terms and conditions other than those authorized by the owner or seller.

This Standard of Practice makes it an imperative that the Realtor® obtain written instructions from the owner or seller regarding the scope of what the Realtor® is to do or not do.

### **Each Association is Given Options**

Under the changes in Article 17 of the Realtor® Code of Ethics, each Board of Realtors® can elect to mandate mediation before a dispute is arbitrated. Our Hudson Gateway Association of Realtors®, Inc. had a Board of Directors Meeting on March 14, 2012. The Directors voted unanimously to adopt the options now offered by the Realtor® Code of Ethics, so that our Realtor® members will be mandated to mediate their disputes before proceeding with a formal arbitration.

### **Why Mediation?**

The experience of our Association and many alternative dispute resolution experts is that “mediation works”. The goal of mediation is to provide an environment that is not hostile, not intimidating, allows the parties to express themselves, be understood and work together to explore the possibilities for resolution.

The experience of our Association with mediation has been positive. Most of the participants in the mediation process have reported that they come away with a better understanding of themselves, their fellow professionals and issues which were before the mediator.

Mediation facilitates understanding because it allows each party to express his or her point of view without being in a “win-lose” environment. Equally important, mediation speeds the process and places the decision back into the hands of the parties who are involved in the dispute. This can be an empowering process because the individuals can decide whether or not they wish to resolve their dispute. The experience of our Association is that virtually every mediation has resulted in a resolution or if a resolution has not been reached, there is a more respectful and less contentious dynamic.

### **Mediation is Also Economical**

When an arbitration panel is brought together, a staff person at the Association plus three (3) Realtors® are empaneled to hear many hours of testimony, thereafter deliberate on the issues and provide a decision based upon the evidence. Mediation involves the time of one (1) trained mediator who can facilitate full expression, a discharge of the negativity and facilitate a resolution satisfactory to all parties.

The HGAR Board of Directors when it adopted the optional provisions compelling mediation, also elected to provide that upon successful mediation, a refund will be given of \$150 of the \$250 each Participant must pay to arbitrate. By participating in the

mediation process, the parties not only may resolve their conflict but also will receive a refund of \$150 of the \$250, if the mediation produces a satisfactory conclusion.

### **The Benefits of a Strong Code of Ethics**

Realtors® enjoy a high level of trust when compared with other professionals. A Gallup Poll evaluating the honesty and ethics of 21 professions found that real estate agents rank with lawyers in the level of public trust. Those levels far exceed perceptions about business executives, congressmen, car salesmen, lobbyists and others.

The Realtor® community has much about which to be proud. The changes in the Code of Ethics which are now in effect are another step forward to promote excellence in an industry in which every Realtor® can hold his or her head high.

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