

Theft by a Real Estate Agent: Penalty



By Brian Madigan LL.B.

You might wonder what would prompt a real estate agent to steal from a home. By the way, the defence “I was just getting my own property back” didn’t work for OJ, and didn’t work for the agent either.

So, here’s what happened. The agent, who was relatively new to the business wanted to sell a certain property. She had heard that it might be for sale. So, she contacted the owner, prepared a Comparative Market Analysis (CMA), which is basically an appraisal and took it over to the owner.

She left the CMA with the owner for a couple of days, hoping to get the listing. However, the owner listed with someone else.

She placed several telephone calls to the owner requesting the CMA. These calls were not returned.

Then, she “showed” the house to a “prospective purchaser” in February 2007. During the showing, she got the inspiration to open the drawer to a sideboard in the dinning room. There she found her CMA, and she took it.

The matter went before the discipline committee of the Real Estate Council of Ontario. She was fined \$5,000 due to her breach of the following ethical guidelines:

Fairness, honesty, etc.

3. A registrant shall treat every person the registrant deals with in the course of a trade in real estate fairly, honestly and with integrity.

Unprofessional conduct, etc.

39. A registrant shall not, in the course of trading in real estate, engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a registrant.

Comment

In essence this is a rather bizarre incident. When she did not have her calls returned, she got into the house and started rifling through the home owner's possessions.

The committee was kind by exonerating her in this fashion. Had the matter proceeded before a Criminal Court she would likely have been charged with breaking and entering and theft. The OJ defence just won't work. This was incredibly foolish conduct. You might have thought that there might be some kind of suspension of registration for a period of time. All in all, this was a lenient result.

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