



PROHIBITION – DO NOT DISCOURAGE LEGAL OR EXPERT ADVICE

Summary: An industry member must not discourage a client, customer or a party to a trade in real estate from seeking legal counsel or expert advice. [See: *Real Estate Act Rules*, s.42(d)]

Industry members must be sensitive, not only to their client's wishes, but also to other parties involved in a trade in real estate or mortgage transaction. In cases where legal advice or other expert opinion, such as that of an accountant, tax specialist, surveyor, appraiser, environmental assessor, etc., is desired by the client or other person, the industry member should not prevent or discourage this person from obtaining such advice or opinions.

Industry members may advise the client on the necessity, benefits and costs of such professionals, but must be careful in what they say. Firstly, the advice they give must be accurate and within their area of expertise. Secondly, they must not prevent or discourage the client or other party from pursuing a course of action that may be prudent to the transaction or bring a greater level of comfort to the person. Even in cases where there is the potential loss of a deal, the industry member must not discourage any person from seeking additional advice. Doing otherwise could result in costly proceedings should the transaction become problematic.

Practice Tip

RECA has available on its website a *Property Inspection Request Form*. The form lists the types of potential services available to buyers when purchasing a property. Buyers may want additional information and clarification to ensure that the property is free of major defects. The form is not all-inclusive, but includes the most common reports or inspections requested by buyers. Industry members should suggest their buyer clients use this form as part of their purchase contract.

Industry members as much as possible should encourage their clients to use outside professionals when they have questions in a purchase transaction their industry member is not able to answer. For instance, on GST/tax implications. However, industry members are cautioned they are not to direct or "steer" clients to specific experts. Instead, a list of experts should be provided with a clear understanding the client is free to choose one of the individuals or firms from the list provided or any other expert they wish.