

Legal Questions & Answers

April 2016

Question: We represent a seller who has a security system in his home; this has been disclosed in MLS. However, the seller's security system can record sound as well as movement. Our Broker, meeting with our seller today, discovered the extent of the security system when our seller asked whether or not she wanted to hear what was discussed during a recent showing. What obligation do we owe the brokers and buyers looking at the home, in letting them know the level of sophistication of the security system in the home?

I can envision a buyer sitting in the home discussing their negotiations with their Broker unaware that the seller could hear everything they had planned.

Answer: Pursuant to ORS 165.540, it is unlawful to record a conversation between the broker and potential buyer without first notifying them of the recordation. We would recommend that you advise your seller to review the law and understand the consequences of unlawfully recording potential buyers in the home. If the seller does not wish to turn off the recording function of the security system, then it will be necessary to specifically notify each broker and potential buyer who wishes to visit the home that their conversations in the home may be recorded by the security system.

Question: As a realtor do we have a legal obligation to disclose to an appraiser any concessions that the seller may have paid for the buyer, such as closing costs and pre-pays?

Is it good policy to tell an appraiser this information?

Answer: It would not be appropriate to misrepresent any seller concessions provided in a transaction. If an appraiser asks for such information, and assuming you have your client's consent to disclose the information, you should provide accurate information to the appraiser. In the absence of your seller's consent to disclose the information, we would recommend that you advise the appraiser that you have not been authorized by your client to disclose any information regarding concessions.