

# CODE COMPREHENSION

## ARTICLE 1 & ARTICLE 3

# Unauthorized Access to Property, SOP 1-16 and 3-9



### QUESTION:

I'm a bit confused – Standard of Practice 1-16 and Standard of Practice 3-9 are virtually identical. How can I tell the difference?

### ANSWER:

The difference is who owes the ethical obligation, the listing agent or the cooperating agent. One important thing to remember about the Code of Ethics is that the Standards of Practice naturally flow from the Articles themselves. A violation of the Code must cite an Article that is being violated. It can also cite an Article as supported by a Standard of Practice, but it does not need to in order for a violation to be found.

How does this apply to Standards of Practice 1-16 and 3-9?

#### Article 1 states the following:

*When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)*

Article 1 addresses the primary ethical duty REALTORS® owe to protect and promote the interests of their client. Standard of Practice 1-16 states the following:

*REALTORS® shall not access or use, or permit or enable others to access or use, listed or managed property on terms or conditions other than those authorized by the owner or seller. (Adopted 1/12)*

In this light, Standard of Practice 1-16 speaks to a REALTOR® working with a seller or owner as a client. A violation of Article 1 as interpreted by Standard of Practice 1-16 would involve an agent of the seller or owner accessing or using (or allowing others to access or use) their client's property on terms other than those agreed upon by their client.

#### Compare that with Article 3:

*REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. (Amended 1/95)*

Article 3 addresses the ethical duties of REALTORS® when cooperating with other brokers. Standard of Practice 3-9 states the following:

*REALTORS® shall not provide access to listed property on terms other than those established by the owner or the seller. (Adopted 1/10, Amended 1/23)*

A violation of Article 3 as interpreted by Standard of Practice 3-9 would involve a cooperating REALTOR® accessing or allowing access to a property on terms other than those agreed upon by the owner or seller and their listing agent.

