

CODE COMPREHENSION

ARTICLE 3

Misrepresenting the Availability of Access to Property and Duty to Cooperate, SOP 3-8 and 3-10



QUESTION:

A buyer's agent entered a property I have listed without authority. I know that is a violation of Article 3 as supported by Standards of Practice 3-9. If that same buyer's agent also falsely informed their client that they had been given permission, is that also a violation of Article 3 as supported by Standard of Practice 3-8 or 3-10?

ANSWER:

No - a cooperating broker misrepresenting that they've been given permission to access a listed property and subsequently providing access on unauthorized terms is covered specifically under Standard of Practice 3-9.

Standards of Practice 3-8 and 3-10 both address the ethical duty of listing brokers or agents to cooperate with other brokers and agents. As an example, if a listing agent were to advertise a client's property as not available for showings until a certain date (whether as a "delayed showing" or "coming soon" status in the local MLS, or otherwise) but then offer showings to a certain preferred broker or brokers, it could be a violation of Article 3, as supported by Standard of Practice 3-8. Similarly, if a listing agent falsely claimed that a property isn't available to be shown in an attempt to avoid a certain potential buyer or their agent / broker, this could also be a violation of Article 3, as supported by Standard of Practice 3-8.

Standard of Practice 3-10 addresses similar concepts of inequitable treatment by prohibiting listing brokers or agents from denying property access to, or withholding property information from, prospective buyers, tenants, or their agents in disregard of the best interests of the seller / landlord. While local associations or MLSs may govern who has access to properties via a lockbox system, it is still the duty of every REALTOR® to provide timely and equitable access to listed property to prospective buyers and their agent representatives whenever it is in the seller/landlord's best interests. In addition, MLS Policy Statement 7.31 provides that REALTOR® associations and MLSs should approve "any lockbox or other access device that provides reasonable, timely access to listed property" and states that local associations and MLSs, at their discretion, may allow a listing broker or agent to issue temporary codes or access to lockboxes and properties on terms and conditions agreed to by the seller/landlord. These provisions foster both a nimble system that allows for safe, reasonable, and timely property access for cooperating agents and prospective buyers or tenants, as well as ensure REALTORS® can easily comply with the duties of Article 3.

