

No Room For Excuses

One of the primary concerns of the Real Estate Commission is to ensure and encourage ethical excellence within the real estate industry on Guam. The word ethics is derived from the Greek terms “ethikos” which means moral and “ethos” which means character. Ethics therefore, is a branch of philosophy that deals with values, behavior, and conduct that takes into consideration the regard for others. Ethics, being a subjective form of behavior, has often been defined simply as the Golden Rule: “Do unto others as you would have others do unto you.”

When discussing and applying ethics to real estate, we need to differentiate between several other concepts that come into play during a real estate transaction. First, we need to understand the difference between “ethical” and “legal” behavior. As I have indicated above, ethical behavior is doing what’s right, while legal behavior is based on a minimum set of standards that is acceptable to society as a whole. The line between legal behavior and ethical behavior can sometimes be blurred, as something legal may seem unethical in a particular situation. Second, we need to understand the motive behind an individual’s action or behavior. Was it done for a “self-serving” purpose, or for the general benefit and welfare of all those involved in the transaction.

Members of the National Association of Realtors® subscribe to the Realtors® Code of Ethics, which promotes professionalism and ethical behavior towards clients and customers, other Realtors®, and the general public. Licensed real estate agents who are not Realtors®, are still expected to provide professional and ethical service throughout a real estate transaction.

Real estate licensees, by the very fact that they are licensed, are held to a higher standard when it comes to buying, selling, or leasing property. As a result, they should not in any way take advantage of their client, customers, or general public when involved in the sale, purchase, or rental of property. As part of a licensed real estate professional’s ethical behavior, her or she has a fiduciary responsibility to their principal (client), their customers, other real estate professionals, and the general public.

This responsibility includes adhering to the duties of obedience, loyalty, disclosure, confidentiality, accounting, and reasonable care, competency and diligence. A licensee must obey all the lawful instructions given to them by their client, but are not required to engage in any unlawful act on behalf of their client. The licensee must be loyal, and act solely in the best interest of their client to the exclusion of all other interests (including their own). They may not take advantage of, or make any personal profit from, any confidential information regarding their client. All licensees have the duty to fully disclose all relevant and material information they possess that pertains to the real estate transaction. Agents must also safeguard any confidential information that would negatively affect their client’s negotiating position. Finally, the licensee must exhibit care in performing their job and provide their client with an accurate and timely accounting of all money received on behalf of the client.

The licensee also has the responsibility to deal fairly and honestly with all customers and the general public, disclosing all known material facts relative to the transaction.

The process of buying, selling, and leasing real property presents opportunities for people to take advantage of other people and situations for material gain. People tend to justify or rationalize unethical behavior. You may have heard some of the more common rationalizations such as “everyone does it”; “if I didn’t do it, someone else would have”; “nobody got hurt”; “the end justifies the means”. Ethical behavior eliminates the need for rationalization or justification.

Licensed real estate professionals are there to assist, protect, and promote your interests in the buying, selling, and leasing of real property. If you feel that your best interest has not represented properly, or that a licensee acted unethically during a real estate transaction, please contact the Guam Real Estate Commission or the Real Estate License Division of the Department of Revenue and Taxation.