

# Your Code of Ethics and Fair Housing Intro

Information gathered courtesy of the National Association of Realtors, Northwest Fair Housing Association, Fair Housing Center of Washington



# What We Will Be Talking About

History of the Code and Preamble  
to Code of Ethics.

3 Categories to the Code

Arbitration and Ethics Process

Ombusmen Services

Case Studies

Pathways to Professionalism

C2X

Recent Changes to the Code

History of Fair Housing

Fair Haven

Protected Classes

Long Island Investigation

Advertising

Working with Buyers and Sellers

Love Letters

Fair Housing Complaints

Article 10-5

# Ice-Breaker Exercise

1. Make only truthful and objective statements.
2. Avoid the unauthorized practice of law.
3. Participate in professional standards enforcement.
4. Keep client funds in separate escrow accounts.
5. Receive compensation from one party only with informed consent.
6. Respect exclusive relationships.
7. Cooperate with other brokers.
8. Disclose present or contemplated interests in property.
9. Treat all parties honestly.
10. Arbitrate contractual disputes.
11. Equal professional services for all.
12. Make your “true position” known when presenting offers.
13. Be competent in your field of practice.
14. Get transactional details in writing.
15. Disclose pertinent facts.
16. Disclose financial benefits from recommending products/services.
17. Paint a true picture in advertising.

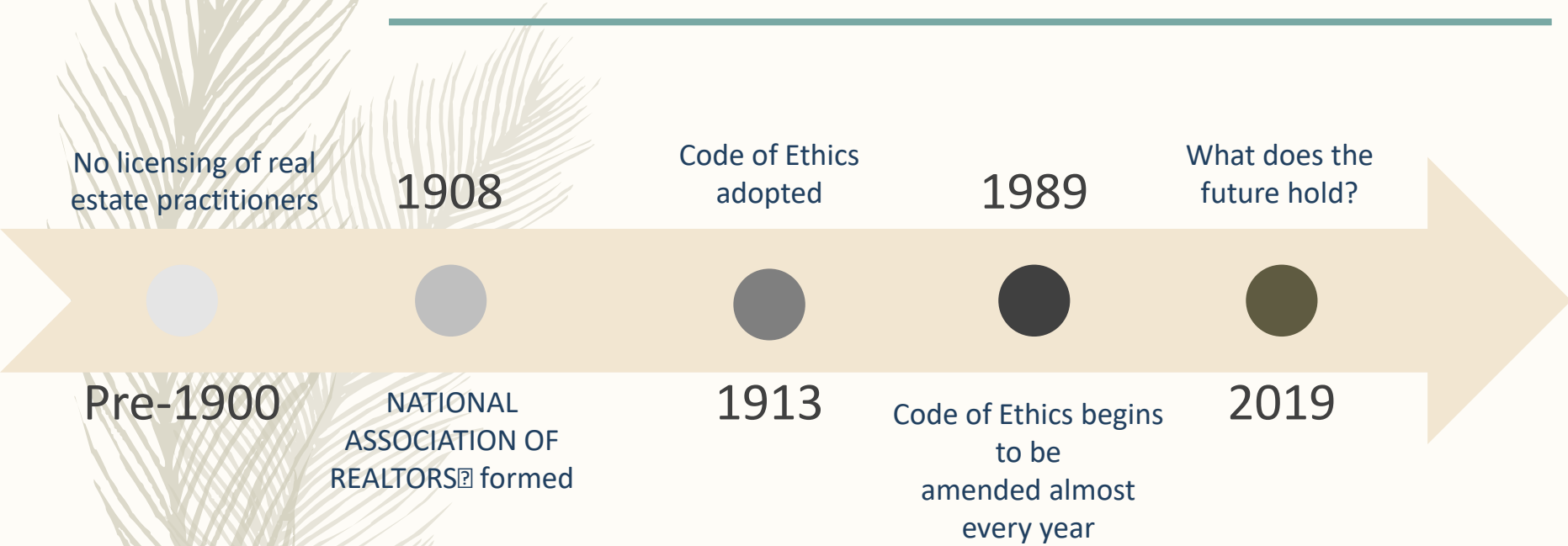
# Ice-Breaker - Answers

1. Article 15
2. Article 13
3. Article 14
4. Article 8
5. Article 7
6. Article 16
7. Article 3
8. Article 5
9. Article 1
10. Article 17
11. Article 10
12. Article 4
13. Article 11
14. Article 9
15. Article 2
16. Article 6
17. Article 12

# PART 1: History of the Code of Ethics



# History of the Code of Ethics



# The Code of Ethics is:

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- Our commitment to professionalism
- Recognized as the measure of high standards in real estate
- The “Golden Thread” that binds the REALTOR® family together
- A living document that evolves with the real estate business

# Business Ethics

- Industry codes
- Company policies
- Individual moral values
- Business ethics and legal standards





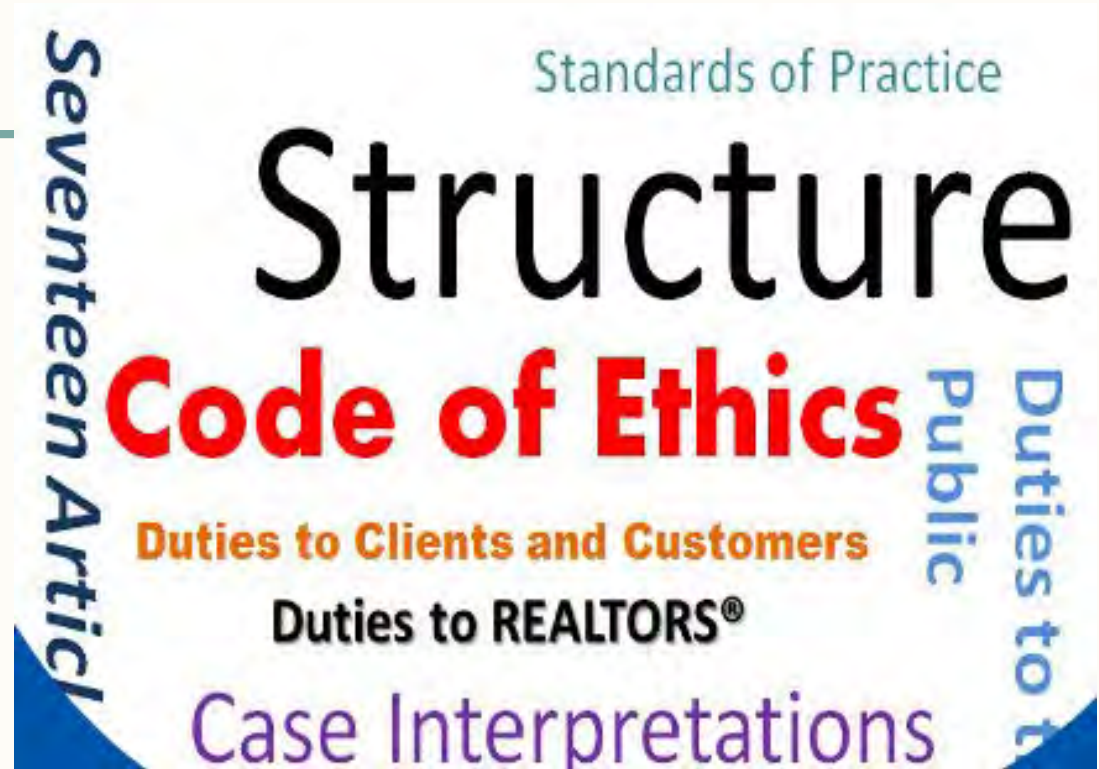
REALTORS® share one common  
characteristic:

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Regardless of real estate business  
specialty, **all REALTORS®** are bound  
by the Code of Ethics.



PART 2:  
STRUCTURE  
AND MAJOR  
CATEGORIES  
OF THE  
CODE





*Under all is the land...*

# Golden *Rule*

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**Whatever ye  
would that others  
should do to you,  
do ye even so to  
them.**

# Structure of the Code of Ethics

## Three Sections

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- **Duties to Clients and Customers**
  - **Duties to the Public**
- **Duties to Other REALTORS<sup>®</sup>**

# Structure of the Code of Ethics

## 17 Articles

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- *Each section is comprised of Articles, which are broad statements of ethical principles.*
- *Only Articles of the Code may be violated.*

# Structure of the Code of Ethics

## Standards of Practice

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- *Support, interpret, and amplify each Article.*
- *May not be charged, but may be cited in support of an alleged violation.*

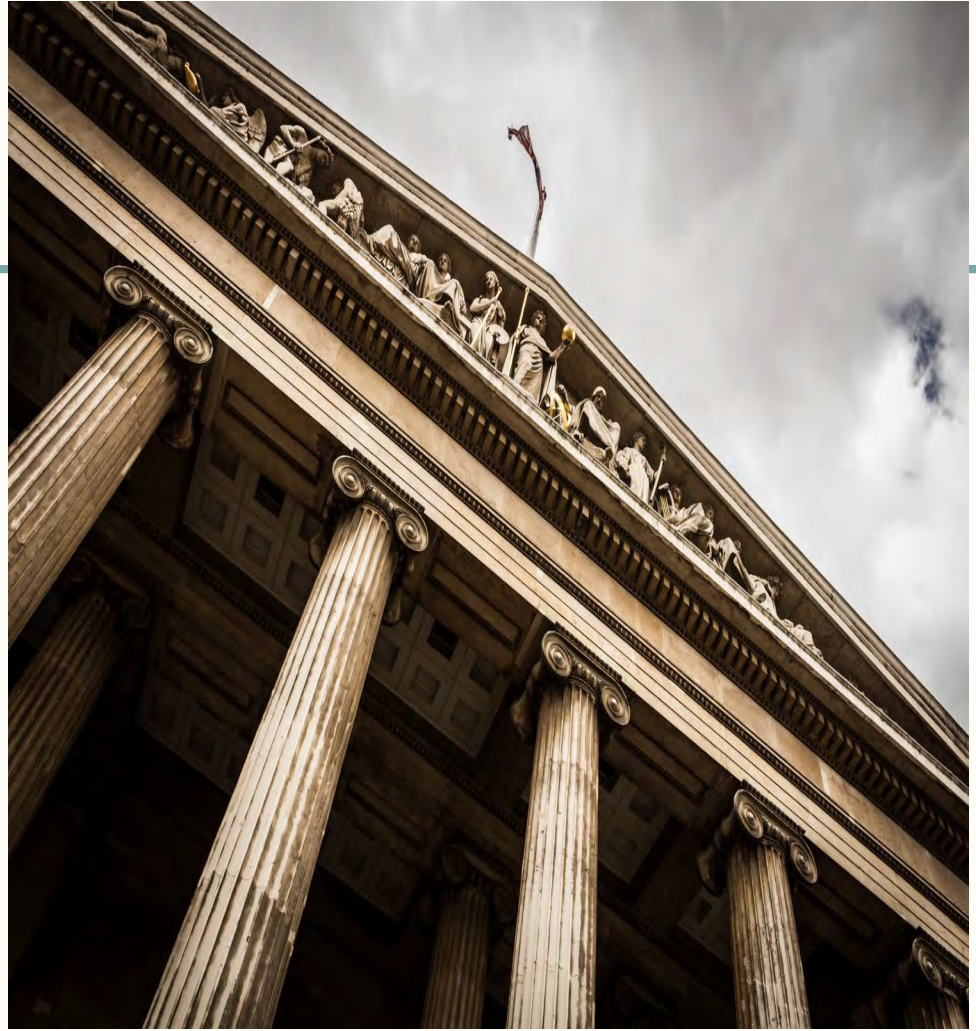
# Official Case Interpretations

Factual  
situations for  
each Article  
and/or  
Standard of  
Practice of the  
Code





PART 3:  
CODE OF  
ETHICS:  
ARBITRATION  
PROCESS



# Arbitration Process

Ethics Complaints

Arbitration Requests

Grievance Committee

Hearing Panel

Appeal

# Arbitration Process: Background

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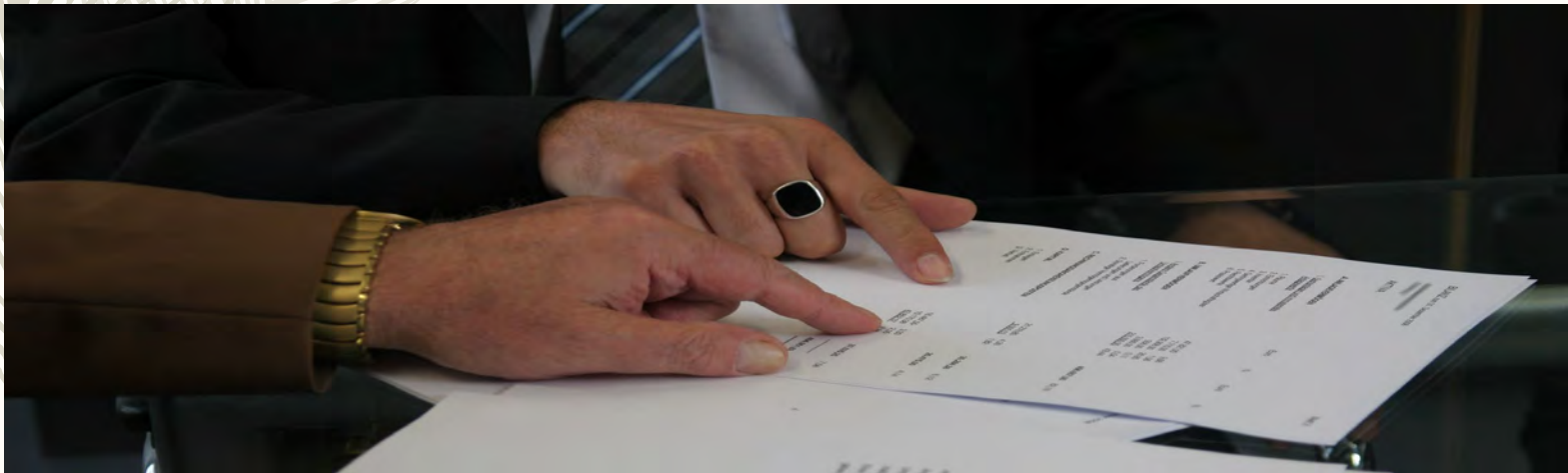
Ethics complaints deal with the perceived unethical “action” or “conduct” of a REALTOR®.

# Arbitration Requests

## Standard of Practice 17-4

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Contractual disputes involving money arising out of a real estate transaction.



# Mediation

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The **mediation officer**, a neutral third-party, works with disputing parties to discuss the dispute and craft an enforceable resolution.





**Arbitration** must fall within  
the parameters of **Article 17**

# Arbitration

Requests must be filed  
within **180 days** after:

- 1) the **closing**
- OR
- 2) the **realization that a dispute** existed,  
whichever is later.



# Who participates in arbitration?

Mandatory	Voluntary
REALTOR® principals associated with different firms	REALTORS® within the same firm
REALTOR® principals associated with different firms when requested by their REALTOR® licensees	REALTORS® and real estate professionals that do not hold REALTOR® membership
Clients and the REALTOR® principals who represent them as agents. In this situation, the client must agree to arbitrate the dispute through the association of REALTORS®.	REALTORS® and customers (no agency relationship)



# What does a Grievance Committee do?

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Reviews ethics complaints and arbitration requests to determine if a full due process hearing is warranted.

## ETHICS

Is the complaint a violation of the Article(s) cited?

## ARBITRATION

Is it related to a monetary dispute arising out of a real estate transaction that is subject to arbitration?

# The Grievance Committee ensures that:

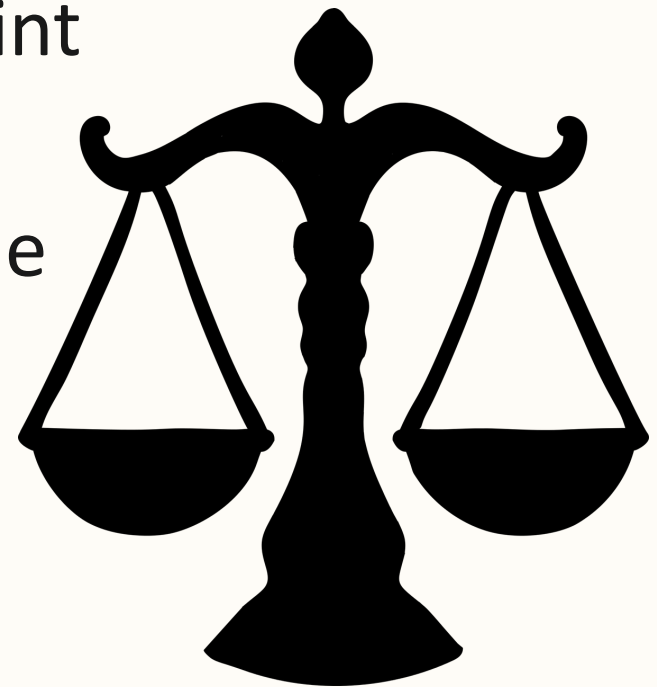
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- Ethics complaints & arbitration requests are in proper form.
- The appropriate parties are named.
- Filing deadlines are followed.
- Litigation or governmental investigations aren't pending related to the same transaction or event that might delay consideration of the matter by a hearing panel.
- The board can impanel an impartial hearing panel.
- The right Articles (for ethics) are named, and if appropriate, Standards of Practice are cited to support the charge of a violation.
- The amount involved (for arbitration) is not too small or too large; and the complaint is categorized as mandatory or voluntary.

# What are grounds for a Grievance Committee appeal?

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- If the Grievance Committee dismisses an ethics complaint or arbitration request
- Over the classification of the dispute as “voluntary” or “mandatory”



# What is a Professional Standards Hearing?

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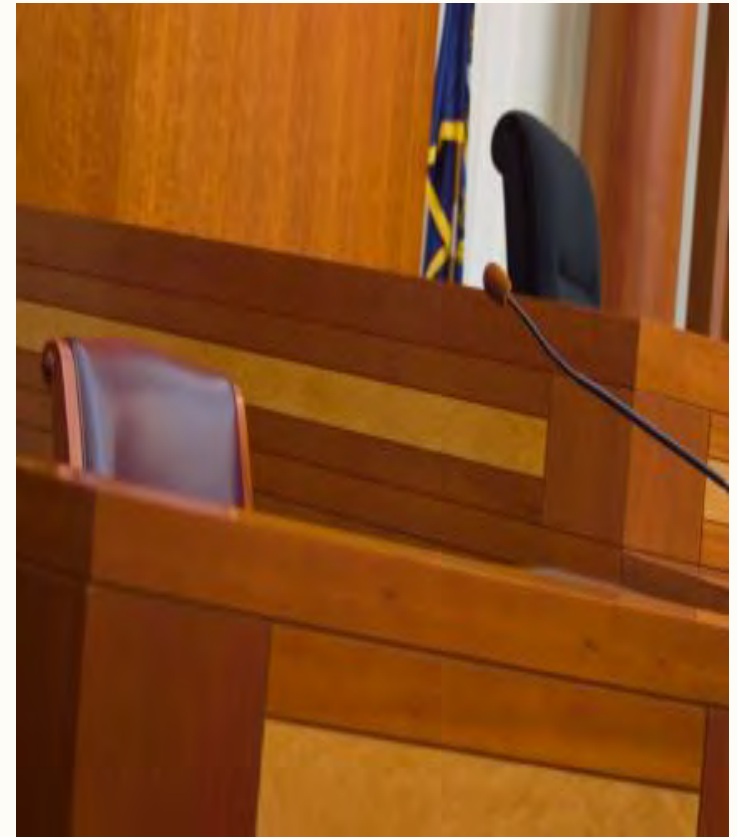
- Full “due process” hearings.
- Fair, unbiased, and impartial.
- To determine whether a violation of the Code occurred or an award should be rendered.



# What Happens at a Professional Standards Hearing?

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1. Parties make an opening statement to present their case.
2. Witnesses are called to provide testimony.
3. Witnesses cross-examined by the other party.
4. Supporting documents & information presented.
5. Parties make closing arguments.
6. Decision made based on the evidence.



# Ethics Hearings

Respondents are considered **innocent** unless proven to have violated the Code of Ethics.

The **burden of proof** in an ethics complaint is “**clear, strong and convincing.**”

# Authorized Discipline

Letters of warning or reprimand

Fines up to \$15,000

Attendance at educational courses/seminars

Suspension or termination of membership

Suspension or termination of services  
including MLS

Cease or refrain from continued conduct deemed unethical or  
take affirmative steps to ensure compliance with the Code

# Arbitration Hearing Results

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The panel will award an amount to the prevailing party.

The amount cannot be more than what was requested in the arbitration request, though it can be less.



# What is Mediation?

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A powerful tool to help REALTORS® and their clients resolve disputes that might otherwise be arbitrated.



# Difference Between Mediation and Arbitration

Mediation	Arbitration
Low cost	Moderate cost
Little delay	Moderate delay
Maximum range of solutions	Win/lose/split
Parties control the outcome	Arbitrators control the outcome
Uncertain closure	Definite closure
Maintains/improves relationships	May harm relationships

# Mediation Process

**1** Explain process

**2** Make statements

**3** Identify issues

**4** Cross-talk

**5** Caucus

**6** Find solutions

**7** Reach agreement

# PART 4: OMBUDSMAN SERVICES



# What is an Ombudsman?

An Ombudsman  
is an individual appointed to

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**resolve disputes**

through

**constructive communication**

and advocating for

**consensus and understanding.**



# Role of the Ombudsman

The ombudsman's role is primarily communication and conciliation, not adjudication.

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## **Ombudsmen DO:**

Anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and charges of unethical conduct.

## **Ombudmen DON'T:**

Determine whether ethics violations have occurred or who is entitled to what amount of money.



# Examples of Covered and NOT Covered Situations

Covered	NOT Covered
<p>A seller contacts the association because they feel their listing broker, who is a REALTOR®, is not responding to phone calls, and may have received offers that they haven't presented to the seller yet.</p>	<p>A buyer contacts the association for help with a short sale transaction.</p>
<p>REALTOR® A contacts the association because she has reason to believe REALTOR® B has been criticizing her business on Facebook after a difficult transaction.</p>	

# What types of issues do Ombudsmen deal with?

General questions about real estate practice

Transaction details

Ethical practice

Enforcement issues

Questions and complaints about members



What issues can Ombudsmen NOT deal with?

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Complaints alleging violations of the **public trust** may NOT be referred to an Ombudsman.

If the Ombudsman has concerns that the **public trust has been violated**, they may refer the case to the Grievance Committee.

# Declining, Resolving, and Complying with Ombudsman Services

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- Complainants do not have to accept the services of an ombudsman
- The formal ethics complaint will continue to be processed until withdrawn by the complainant
- The complainant may resubmit the original complaint if they refuse to comply with the terms of a mutually agreed on resolution

# Referrals

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Ombudsmen **CANNOT** refer concerns about **conduct of parties** to:

- the Grievance Committee;
- the state real estate licensing authority;
- any other regulatory body.

The prohibition is intended to **ensure impartiality** and avoid the possible appearance of **bias**.



PART 5:  
CASE  
STUDIES  
OF  
SELECTED  
ARTICLES  
OF THE  
CODE OF  
ETHICS



# Article 1

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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.

# Article 1, Case Study 1



1. Do you think Bob is in violation of the Code?
2. What was Bob's obligation to Grant?

## Article 1, Case Study 2

1. Can John renegotiate his listing commission at the time he presents the two offers?
2. By reducing the listing commission, can John present both offers in an objective manner, as required by Standard of Practice 1-6?
3. Under Article 3, as established in Standard of Practice 3-4, is John obligated to inform Bob that he modified the listing commission prior to the offer being accepted?

# Article 2

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REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction.

REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law.



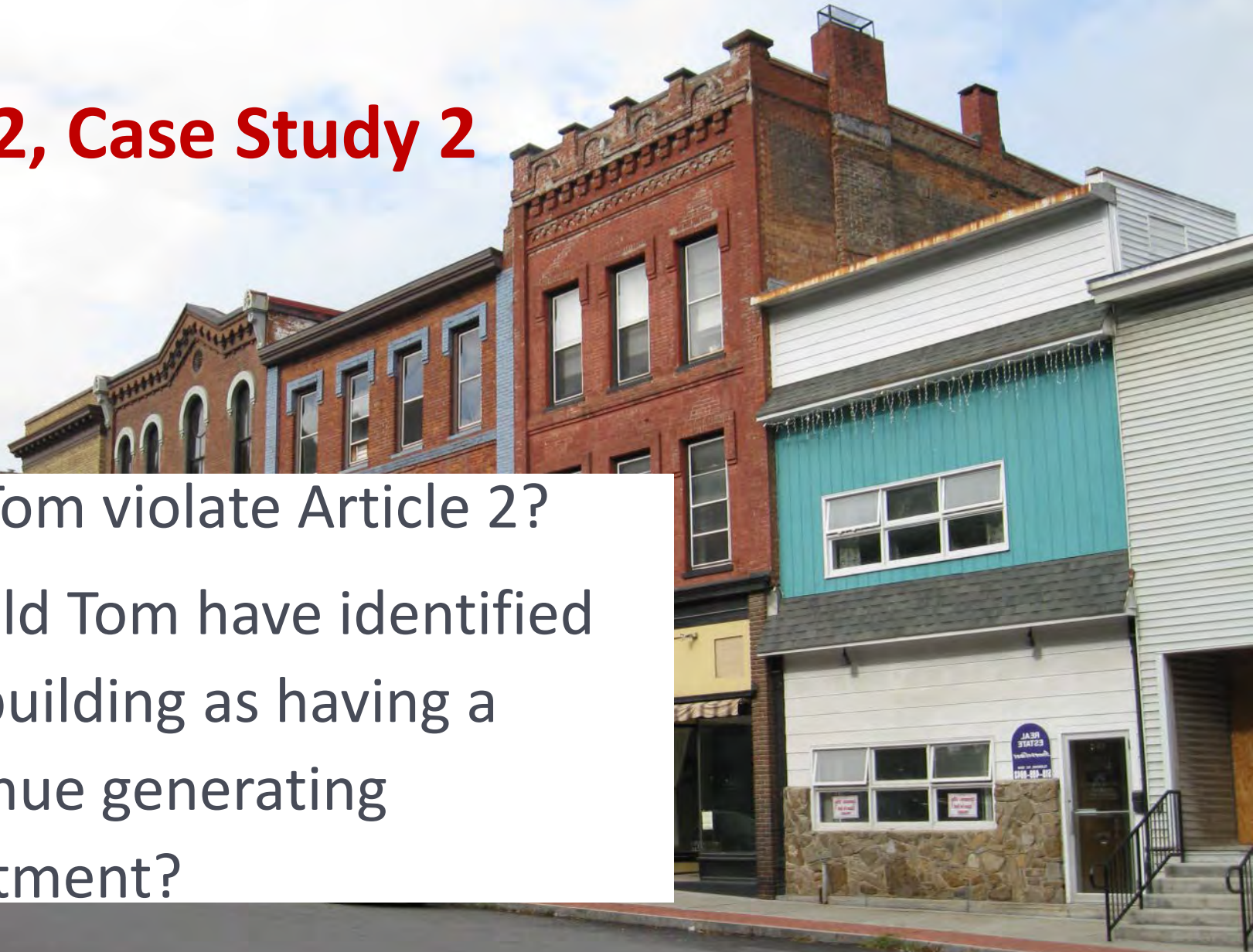
## Article 2, Case Study 1



1. Do you think Ron is in violation of the Code?
2. What was Ron's obligation to Jeff?

## Article 2, Case Study 2

1. Did Tom violate Article 2?
2. Should Tom have identified the building as having a revenue generating apartment?



# Article 3

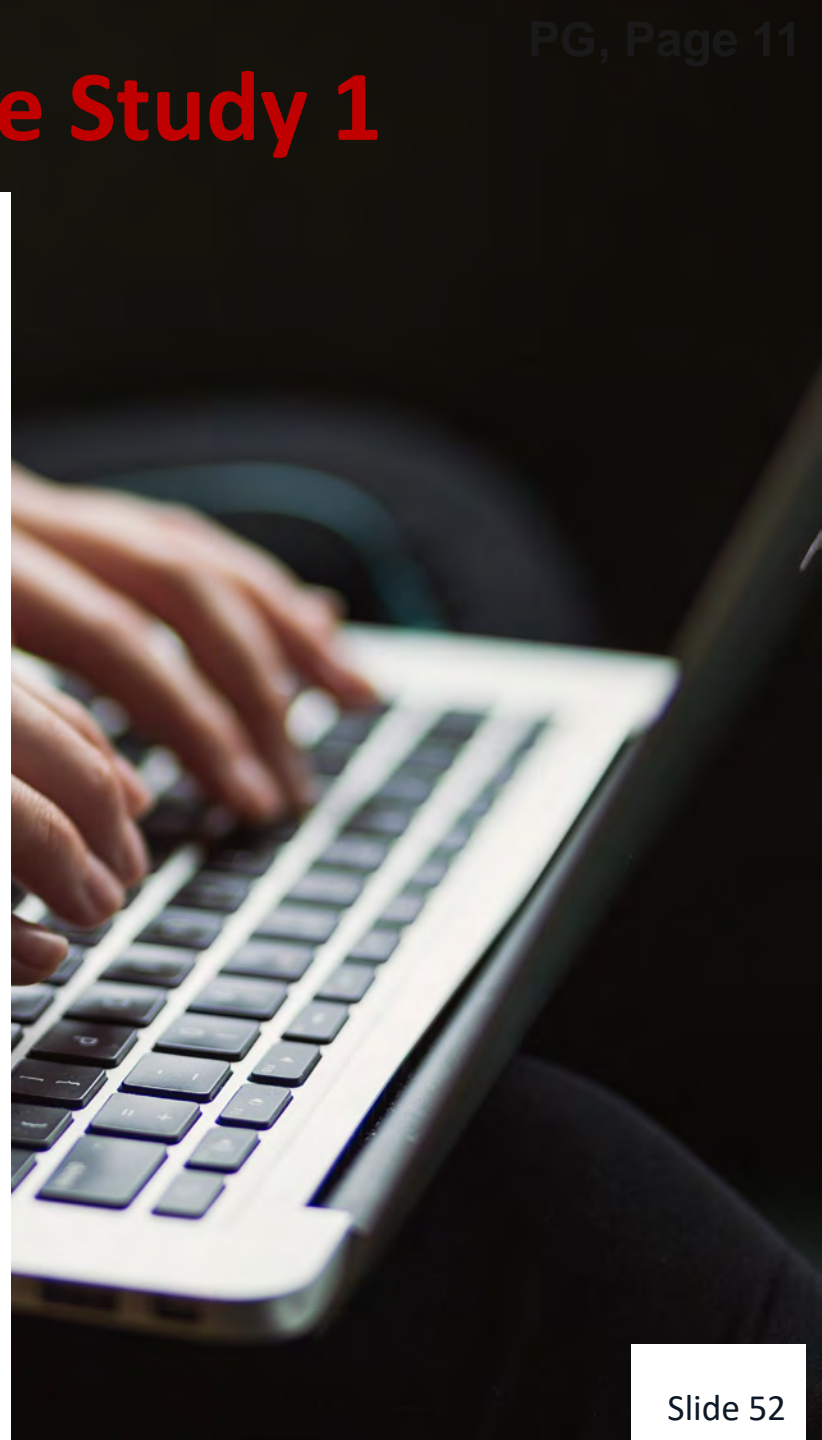
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REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest.

The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.

# Article 3, Case Study 1

1. What Standard of Practice under Article 3 applies to this case?
2. Is Lucy in violation of the Code?
3. If Sam files an arbitration claim against Lucy for the compensation offered through the MLS, should Sam prevail?



## Article 3, Case Study 2

1. Is Bill obligated to disclose the accepted offer to other cooperating brokers?
2. Does Bill's obligation under Article 1 to protect and promote his seller client's interests mean that he should not reveal the accepted offer?

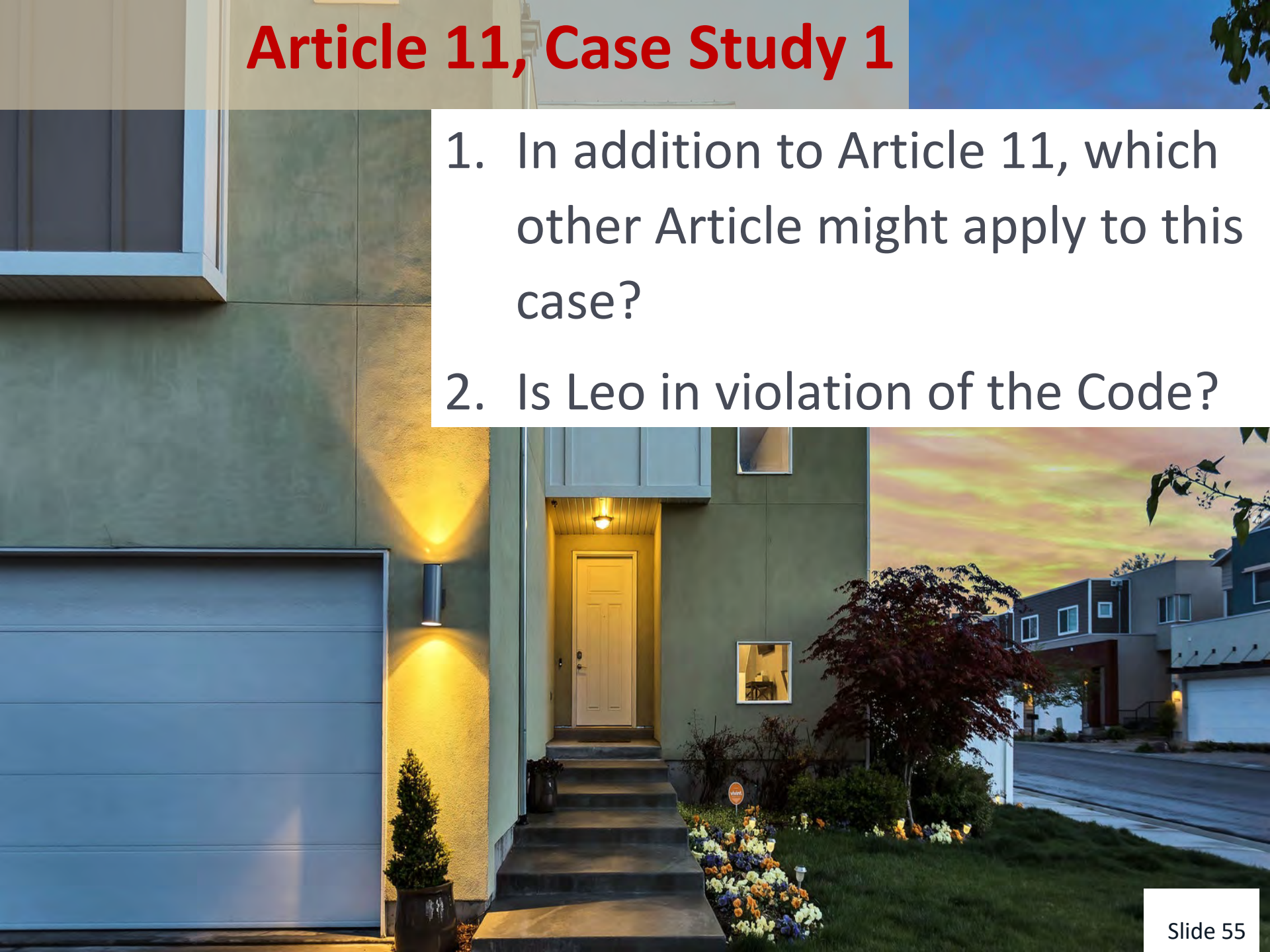
# Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

# Article 11, Case Study 1

1. In addition to Article 11, which other Article might apply to this case?
2. Is Leo in violation of the Code?



# Article 11, Case Study 2

1. As used in Standard of Practice 11-1, does Paul have a “present or contemplated interest” in the property when he does the appraisal?
2. Is Paul in Violation of Article 11?





# Article 16

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REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients.

# Article 16, Case Study 1

1. What Standard of Practice under Article 16 applies to this situation?
2. Is Laura in violation of Article 16?
3. What was Laura's obligation?
4. Is Sue in violation of Article 16?

# Article 16, Case Study 2



1. Identify the Standard of Practice that applies to this situation?
2. Is there an obligation on Mike's part to work through Barbara?



PART 6:  
PATHWAYS TO  
PROFESSION  
ALISM &  
MARKETING  
THE CODE OF  
ETHICS



# Using the Code of Ethics in Your Business

- Provides a competitive advantage
- Guarantees customer will receive accurate, timely information and their interests will always be served first
- Use as a tool when training new agents
- A continual reminder of the professional services REALTORS® provide

# Look to the Code for Guidance

- Use it to model your professional behavior when confronted with questions such as . . .

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  - Should I work with more than one agent?
  - What do you think about this other agent?
  - Should I buy through the listing agent to get the best price?
  - Can you help me with a pocket listing?



# Available in 15 Languages

- You can assist foreign buyers who might have difficulty understanding the code by printing it in a language they understand.

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- English
  - Chinese (simplified and traditional)
  - Danish
  - French
  - German
  - Italian
  - Japanese
  - Korean
  - Portuguese
  - Romanian
  - Russian
  - Spanish
  - Tagalog
  - Vietnamese

# The Code of Ethics and Social Media

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Article 12 provides guidelines on communication

Be honest and truthful in all communication including social media

Remind clients to also practice discretion online



# Changes to the Code this past year?

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- SOP 10-5.
- While a Realtor and when you are not?
- Social Media.
- Public Trust.
- SOP 1-7.

# Promote your Ethical Responsibility to the Consumer

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- The Code can be used as a marketing tool
- Shows consumer you have agreed to abide by this standard of professionalism.
- Code can be printed and customized with your company name.
- Display your REALTOR® pin.
- Reference the code in all your professional correspondence.



# The Pathway to Professionalism: Six Timeless Tips



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Follow the “Golden Rule”

Show courtesy and respect to everyone

Communicate with all parties in a timely fashion

Always present a professional appearance

Be aware of and meet all deadlines

Be aware of and respectful of all cultural differences

# Respect for Property

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- Be responsible
- Keep all members of the group together
- Never give unaccompanied access
- Enter property only with permission
- Leave property as you found it
- Contact listing broker if something is amiss
- Be considerate of sellers' property
- Use sidewalks to protect landscaping
- Remove footwear in inclement weather
- Avoid cell phone distractions during showing
- Be alert to avoid the unexpected
- Practice respect when owner is home during showing

# Respect for the Public

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- Identify your REALTOR® and professional status
- Leave your business card unless prohibited by local rules
- Encourage clients of other agents to direct questions to that agent
- Don't tell people what you think, tell them what you know
- Respond promptly to inquiries
- Call if you're delayed or need to reschedule
- Promptly explain to listing agent if showing is cancelled
- Communicate clearly—avoid jargon and slang.
- Schedule appointments as far in advance as possible
- Promise only what you can deliver

# Respect for Peers

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- Identify your REALTOR® and professional status
- Promptly and courteously respond to other agents' communications
- Notify listing broker if there is inaccurate information in listing
- Share important information with other agents such as pets or a security system
- Show courtesy, trust, and respect to other agents
- Avoid inappropriate use of endearments or language that may be culturally insensitive
- Do not prospect at other agents' open houses or events
- Return keys promptly after a showing

# Pathways to Professionalism

## Case Study 1

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1. Olivia obviously makes several errors that violate the Code of Ethics. Based on Pathways to Professionalism, in which incident is Olivia displaying a lack of respect for her peers?
2. Using the guidelines in Pathways to Professionalism, list five guidelines Olivia violates in terms of respect for property.



# Pathways to Professionalism


## Case Study 2

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1. Taking into consideration the Pathways to Professionalism guidelines, what is Courtney demonstrating a lack of respect for when she and Max comment that the paint color in some rooms is dreadful?
2. Of the many errors Courtney makes in this scenario, which incident demonstrates her lack of respect for the public?







# C2X provided by the National Association of Realtors “Commitment to Excellence”

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Improve the quality and consistency of the service of REALTORS®.

Improve the reputation of REALTORS® in the public eye.

Encourage engagement “beyond the sale” by showcasing the value of assisting other REALTORS® and becoming involved in advocacy.

Create a platform that continuously engages the REALTOR® in the process of self-improvement without disruption to the REALTOR®’S life.

PART 7:  
HISTORY OF  
FAIR  
HOUSING



**EQUAL HOUSING  
OPPORTUNITY**

# Article 10 of COE

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REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

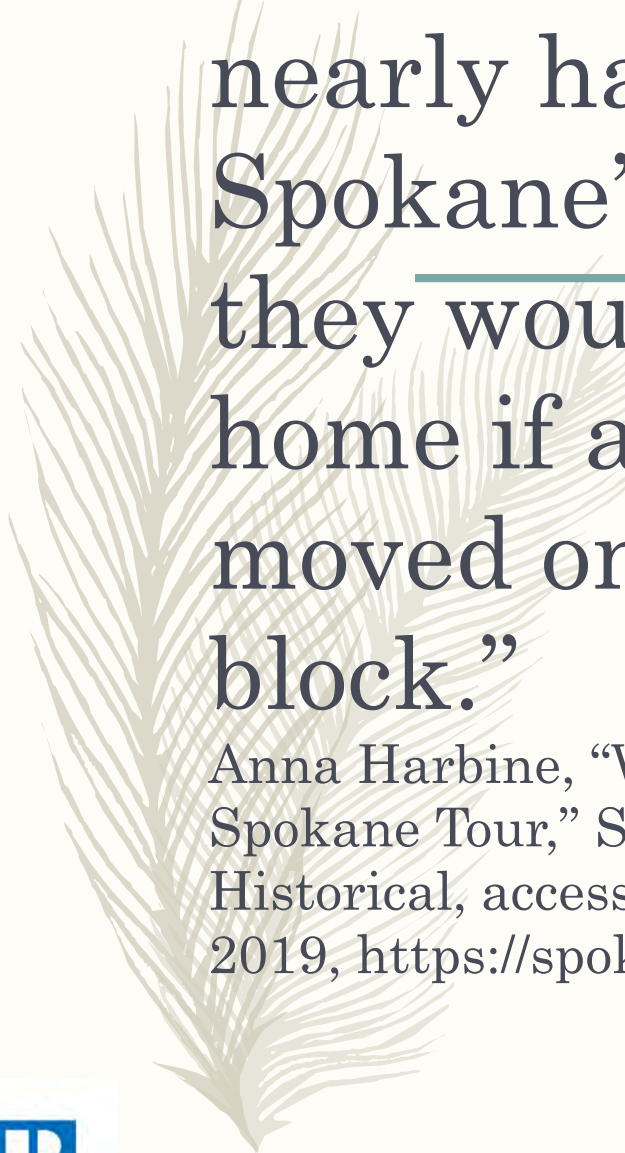
1963: WA Advisory Committee to the US Commission on Civil Rights (included Carl Maxey) sent report to WSBAD:

- Influx of African Americans into WA  
(7,424 in 1940; 48,783 in 1960)

would increase racial tensions unless state and federal govt. implemented remedial legislation, guaranteeing equal opportunity for all people regardless of race, religion, or national origin

- Blacks experience major barriers in securing home loans compared to other racial groups in Spokane, and thus continued to live in the low-income eastside area.

- Realtors confined blacks to inferior, impoverished neighborhoods.



“According to a 1945 survey,  
nearly half of  
Spokane’s homeowners said  
they would sell their  
home if a Japanese family  
moved onto the same  
block.”

Anna Harbine, “Welcome to the Japanese Americans of  
Spokane Tour,” Spokane  
Historical, accessed September 23,  
2019, <https://spokanehistorical.org/items/show/566>

1961:

Frank Hopkins, owner of Ebony Cafe, told the Spokesman-Review in 1961 what happened

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when he bought a house on the north side, outside of an established black area. Just as he was about to move in someone broke out 28 windows in one night. “I just had to let it go,” he said.

Reverend J. C. Brooks of Bethel African Methodist Episcopal Church in Spokane told the Spokesman-Review that a black person looking for a house would be steered to the “~~area for Negroes,~~” which he said was bounded by Division on the west, Altamont on the east, Ninth on the south, and Sprague on the north. Today it is called the East Central neighborhood.

Segregation in Spokane, Longtime Black Residents Recount the Injustices and the Victories,  
COLUMBIA: Winter 2000-01; Vol. 14, No. 4, By Jim Kershner,  
<https://spokaneracism.wordpress.com/2008/01/27/segregation-in-spokane/>

# Steering by Real Estate Agents?

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*National and local real estate associations bylaws and codes of ethics:*

“A Realtor should never be instrumental in introducing into a neighborhood ... members of any race or nationality, or any persons whose presence will be detrimental to property values in that neighborhood.”



# Prohibited Practices

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Denying or limiting use of real estate services.

Falsely denying availability.

Refusing to show.

Failing to accept or consider a bona fide offer.

Delaying or failing to process an offer for sale or rental.

Making, printing, or publishing a discriminatory statement.

Advertising housing as available to only certain buyers.

Representing that discriminatory deed or covenant provisions will preclude a sale or rental.

Enforcing discriminatory deed or covenant restrictions.

## Prohibited Practices (cont.)

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Using different provisions in leases or sales contracts, such as those related to security deposits, down payments, closing requirements

Using different qualification criteria or standards.

Imposing different sales prices.

Limiting the use of privileges, services or facilities.

“**Blockbusting**” – persuading someone to sell housing by saying minorities are moving in.

## Prohibited Practices (cont.)

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Denying or making different home loan terms.

Discriminatory appraisals.

Discriminatory provision of homeowners' insurance.

Exclusionary land use practices.

Discharging or taking adverse action against an employee, broker, or agent because he or she refused to participate in discriminatory acts.

# Steering

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It shall be unlawful, because of (protected class), to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.

# Steering

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“discouraging any person from inspecting, purchasing or renting a dwelling because of race or national origin, or because of (the protected class) of persons in a community, neighborhood or development” (24 C.F.R. § 100.70(c)(1)).

# Steering

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- “discouraging the purchase of a dwelling, by exaggerating drawbacks or failing to inform any person of desirable features” (24 C.F.R. 100.70(c)(2)), &
- “communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents ...” (24 C.F.R. 100.70(c)(3)).

# Steering

US v. Coldwell Banker Joe T. Lane Realty, Inc.

Georgia 2010

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- Lawsuit originated from a complaint filed by the Nat. Fair Housing Alliance with HUD.
- Testing of Coldwell Banker Joe T. Lane Realty Inc. revealed real estate agent steered white testers towards predominately white areas and away from predominately African-American areas.
- Before showing the tester any homes, agent told tester he did not know where to take the tester because he could not tell from talking on the telephone whether the tester was white.
- Alleges Coldwell Banker Joe T. Bank Realty is vicariously liable for Mr. Foreman's conduct.

# Steering can be expensive.

US v. Coldwell Banker Joe T. Lane Realty

Georgia 2010

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- Consent order required that Defendants pay **\$160,000**.



[www.NAR.Realtor/fair-housing/](http://www.NAR.Realtor/fair-housing/)**FAIRHAVEN**

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November 2020, NAR launched Fairhaven, a new fair housing simulation training for REALTORS® that uses the power of storytelling to help members identify, prevent, and address discriminatory practices in real estate. Inspired by real stories, this innovative online experience has agents work against the clock to sell homes in the fictional town of Fairhaven, while confronting discrimination in the homebuying process. Learners will also walk in the shoes of a homebuyer facing discrimination.

PART 8:  
PROTECTIVE  
CLASSES



**EQUAL HOUSING  
OPPORTUNITY**

# 1968 Fair Housing Law

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Outlawed the refusal to sell or rent a dwelling to any person because of race, color, disability (1988), religion, sex (1974), familial status (1988), or national origin.

# Washington State

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Buyers in Washington State are protected against discrimination because of their race, color, national origin, religion/creed, sex/gender, **because of the presence of children**, disability, **sexual orientation** and **gender identity**, marital status, and **military/veteran** status.

# AGE?

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The federal **Fair Housing** Acts do not expressly ban discrimination based on **age**. Nevertheless, it is definitely forbidden under the broader prohibition against discrimination on the basis of familial status.



# Things that are not Protected

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**Criminal Record**

**Income**

**Park Locations**

**Schools\***

**Housing Values**

**Credit Scores**

**Problem Clients**

Currently, HUD makes an Equal Housing Opportunity Poster available to real estate brokers that summarizes the Federal Fair Housing Laws. There is no law currently requiring a broker to post the notice, but should a broker be investigated for violation of the law and the poster is not displayed, the failure to do so is considered evidence of discrimination.

PART 9:  
ADVERTISING  
AND  
WORKING  
WITH  
CLIENTS



**EQUAL HOUSING  
OPPORTUNITY**



# Purpose & Methodology of Testing

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- Fair housing audit testing: controlled method for measuring and documenting variations in the quality, quantity and content of info. & services offered or given to home seekers by housing service providers.
- Testing is a method of uncovering and detecting discrimination: In 1982, the U.S. Supreme Court confirmed the importance and validity of fair housing testing, in a unanimous decision.

# Long Island 2019

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3 year study by *Newsday*.

Testing how Realtors responded to White, Asian, Hispanic and Black homebuyers.

Over 100 tests, 93 agents, and 5700 listings.

40% of the time they found disparate treatment of minorities.

49% to Black Buyers, 39% to Hispanic, 19% to Asian.

92 Agents that were a part of the conclusions were invited to review the videos and discuss the results. 21 accepted.

67 of them were asked to come before a Senate Committee to discuss the results, none showed up - but later compelled by subpoena.

# Conclusions

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Victims of discrimination don't usually know it. They may be treated very cordially, don't know the laws, and wouldn't know what to do about it if they did know.

The consensus was that the most effective way to root out discrimination by real estate brokers was through the kind of testing that resulted in the *Newsday* report.



# Marketing the House

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To market your property safely, describe the features of the property and avoid describing whom you think would like to buy the property.

You should avoid making any statement that indicates a preference or discouragement based on someone's protected class.

You may not intend to indicate a preference or limitation when you market your property, but a customer's reasonable perception is considered in evaluating whether there is a fair housing violation.

# Marketing the House (cont.)

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If you use advertising with photographs or drawings of people, try to include men, women, children, people with disabilities, and people of various races, nationalities and ages in a way that reflects the population as a whole.

Affirmative marketing is acceptable. Promote that families are welcome or that the property is accessible for people with disabilities. You can also promote properties that fall within guidelines of the Housing for Old Persons Act (HOPA) to older populations and feel welcome to encourage active military and veterans.

# Looking for Buyers

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Does your office have written procedures and resources in place?

Have resources that will allow your clients to answer their own inevitable questions about who lives in the area, what the schools are like, whether sex offenders live nearby, what transportation is available, what the crime rate is, etc.

*Answering any information regarding demographics can raise potential fair housing issues later on.*

*When talking about homes, focus on price range, features, and where do they want to live.*

*When screening clients be consistent and flexible (drivers license, credit score, prequalification).*

# Meeting with Sellers

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Promote your commitment to Fair Housing Laws up Front.

You can, and probably will, be held liable for damages and jeopardize your license if you are complicit with any seller that makes any suggestions or actions to violate Fair Housing Laws.

If this happens? Immediately report it to your managing broker and notify the buyers broker (if applicable) as well.

Multiple Offers? **Price and Terms. Price and Terms. Price and Terms.**

# Open Houses – is this a trap?

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Conduct your open houses fairly and professionally, and don't worry if you ask the same exact questions to each and every person, as long as you are seeking the same basic information. Your questions should not be the same because you think you might be sued – they should be similar because you want to learn similar information from all of your customers.

You are trying to learn useful information about them. Are they buying or just looking? Are they working with another agent? Are they pre-qualified? What range?



# Love Letters?

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Price and Terms!  
Price and Terms! Price and Terms!

Who is at risk?

# Personal Service?

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Fair housing laws support providing personal service to every client. *The law kicks in when you provide less favorable service to some people because of their protected class.* To comply with fair housing laws, put procedures in place to ensure consistent, professional service for all your clients. That will leave you free to provide personal service to meet each of your clients' needs, personalities, etc.

# Housing for Old Persons Act 12/28/1995

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Under the Fair Housing Act, as amended by HOPA, a community that qualifies for the “housing for older persons” exemption can refuse to rent or sell to families with children.

The community must meet certain requirements. Three types of housing qualify under HOPA:

- 1) HUD Secretary designated elderly housing.
- 2) Housing for residents who are 62 or older, whether private or assisted.
- 3) Housing intended and operated for occupancy by residents who are 55 years of age or older. For 55 or older housing, the following criteria must be met:
  - \*At least 80% of the occupied units are occupied by at least one person who is 55 years of age or older.
  - \*The owner or management of the housing facility or community must publish and adhere to policies and procedures that demonstrate an intent to operate as 55 or older housing

# Filed a Complaint, what happens?

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.Written notice to the person or business named in the complaint as a respondent. The respondent has a chance to respond in writing to the complaint.

Attempts at mediation.

Investigation to conclude “reasonable cause” that violation occurred or “no cause”.

Complainant can appeal if “no cause” found.

If “reasonable cause” is found a settlement agreement is the ideal solution.

If unable to resolve, would be forwarded for further action by legal authorities.

# What is my responsibility?

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If your actions are found to be in violation of the fair housing laws, you may be responsible for paying monetary remedies to the injured party for actual damages (including damages caused by emotional distress, humiliation and embarrassment) attorney fees, and possible civil penalties to the agency where the complaint was filed. You also may lose your license.

The broker's firm (as an entity) is also responsible for the actions of its agent. If a real estate firm is not incorporated or if the owners or principals also acted in a discriminatory manner, the owners or principals can be personally liable.

# And Finally

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Generally, an individual must file a fair housing complaint within a year of the harmful housing action.

Clients harmed? Enforcement agencies have the power to stop the owner from selling to anyone else until they are able to determine if a fair housing violation has occurred. The sooner you and your clients contact your local fair housing agency, the better.

# QUESTIONS AND ANSWERS



**EQUAL HOUSING  
OPPORTUNITY**