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E&O RISK MANAGER

HELPING REAL ESTATE PROFESSIONALS REDUCE THEIR CLAIM EXPOSURES

MEASURE TWICE, CUT ONCE

Failure to Double-Check Your Work Could End in a Lawsuit

There's a reason carpenters are known for the saying "measure twice, cut once." One wrong cut could cost them time, money, and even their reputation. The same is true for real estate professionals. Failure to carefully plan and prepare prior to taking action could lead to a disastrous outcome.

Here's a real-life scenario that demonstrates the importance of double-checking your work.

SITUATION

A lending institution engaged a real estate broker to list and sell residential property that went through the foreclosure process after its owners defaulted on the mortgage. As instructed, the broker arranged to have an asset management company "trash out" and dispose of the contents by sale or destruction. A for sale sign was then placed in the yard and the lock on the front door was changed.

PROBLEM

It was the wrong property.

MISTAKE

When conveying information to the asset management company, the broker provided the incorrect address. By mere coincidence, the broker had another listing two doors down and simply mixed up the properties.

RESULT

The owner of the "trash out" property inherited it from her father a year earlier following his passing, but it sat unoccupied while the broker attempted to find a qualified buyer. The owner, who routinely checked on its condition every few weeks was alarmed when she saw the for sale sign and discovered that all the contents in the home had been removed. Not long after writing to complain, the owner filed suit against the broker, bank, and asset management company alleging trespass, conversion, and negligent infliction of emotional distress, while claiming monetary damages for loss of household furnishings, which included expensive antiques. The case eventually settled for \$30,000 along with an agreement to terminate the listing and of course, the opportunity to generate a sales commission.

PREVENTION

The old proverb from master carpenters to "measure twice, cut once" applies to all professionals, including real estate brokers who can become targets of expensive and disruptive lawsuits by failing to pay attention to the details. Establishing and following a system of checks and balances where one professional reviews contracts and the other checks for potential errors can minimize the risks of liability. A rather simple oversight can be very damaging to one's reputation and negatively impact revenue streams. **P**



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