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O.C.G.A. § 10-6A-5 ([Copy w/ Cite](#))

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*** Current through the 2007 Regular Session ***

TITLE 10. COMMERCE AND TRADE
CHAPTER 6A. BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

O.C.G.A. § 10-6A-5 (2007)

§ 10-6A-5. Duties and responsibilities of broker engaged by seller

(a) A broker engaged by a seller shall:

(1) Perform the terms of the brokerage engagement made with the seller;

(2) Promote the interests of the seller by:

(A) Seeking a sale at the price and terms stated in the brokerage engagement or at a price and terms acceptable to the seller; provided, however, the broker shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract of sale, unless the brokerage engagement so provides;

(B) Timely presenting all offers to and from the seller, even when the property is subject to a contract of sale;

(C) Disclosing to the seller material facts which the broker has actual knowledge concerning the transaction;

(D) Advising the seller to obtain expert advice as to material matters which are beyond the expertise of the broker; and

(E) Timely accounting for all money and property received in which the seller has or may have an interest;

(3) Exercise reasonable skill and care in performing the duties set forth in this subsection and such other duties, if any, as may be agreed to by the parties in the brokerage engagement;

(4) Comply with all requirements of this chapter and all applicable statutes and regulations, including but not limited to fair housing and civil rights statutes; and

(5) Keep confidential all information received by the broker during the course of the engagement which is made confidential by an express request or instruction from the seller unless the seller permits such disclosure by subsequent word or conduct, or such disclosure is required by law; provided, however, that disclosures between a broker and any of the broker's affiliated licensees assisting the broker in representing the seller shall not be deemed to breach the duty of confidentiality described above.

(b) A broker engaged by a seller shall timely disclose the following to all parties with whom the broker is working:

(1) All adverse material facts pertaining to the physical condition of the property and improvements located on such property including but not limited to material defects in the property, environmental contamination, and facts required by statute or regulation to be disclosed which are actually known by the broker which could not be discovered by a reasonably diligent inspection of the property by the buyer; and

(2) All material facts pertaining to existing adverse physical conditions in the immediate neighborhood within one mile of the property which are actually known to the broker and which could not be discovered by the buyer upon a diligent inspection of the neighborhood or through the review of reasonably available governmental regulations, documents, records, maps, and statistics. Examples of reasonably available governmental regulations, documents, records, maps, and statistics shall include without limitation: land use maps and plans; zoning ordinances; recorded plats and surveys; transportation maps and plans; maps of flood plains; tax maps; school district boundary maps; and maps showing the boundary lines of governmental jurisdictions. Nothing in this subsection shall be deemed to create any duty on the part of a broker to discover or seek to discover either adverse material facts pertaining to the physical condition of the property or existing adverse conditions in the immediate neighborhood. Brokers shall not knowingly give prospective buyers false information; provided, however, that a broker shall not be liable to a buyer for providing false information to the buyer if the broker did not have actual knowledge that the information was false and discloses to the buyer the source of the information. Nothing in this subsection shall limit any obligation of a seller under any applicable law to disclose to prospective buyers all adverse material facts actually known by the seller pertaining to the physical condition of the property nor shall it limit the obligation of prospective buyers to inspect and to familiarize themselves with potentially adverse conditions related to the physical condition of the property, any improvements located on the property, and the neighborhood in which the property is located. No cause of action shall arise on behalf of any person against a broker for revealing information in compliance with this subsection. No broker shall be liable for failure to disclose any matter other than those matters enumerated in this subsection. Violations of this subsection shall not create liability on the part of the broker absent a finding of fraud on the part of the broker.

(c) A broker engaged by a seller in a real estate transaction may provide assistance to the buyer by performing ministerial acts of the type described in Code Section 10-6A-14; and performing such ministerial acts shall not be construed to violate the broker's brokerage engagement with the seller nor shall performing such ministerial acts for the buyer be construed to form a brokerage engagement with the buyer.

(d) A broker engaged by a seller does not breach any duty or obligation by showing alternative properties to prospective buyers.

HISTORY: Code 1981, § 10-6A-5, enacted by Ga. L. 1993, p. 376, § 1; Ga. L. 2000, p. 929, § 1.

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