

THE REAL ESTATE (DEALERS AND DEVELOPERS) ACT

REGULATIONS
(under section 43 (1) (h))

THE REAL ESTATE (DEALERS AND DEVELOPERS) (CODE OF ETHICS)
REGULATIONS, 1998

(Made by the Minister on the 2nd day of December, 1998)

L.N. 98/98

1. These Regulations may be cited as the Real Estate (Dealers and Developers) (Code of Ethics) Regulations, 1998. Citation

2. A real estate dealer shall maintain an office for the purpose of carrying on the practice of real estate business. Real estate dealer to maintain office.

3. A real estate dealer shall— Real estate dealer to display licence, etc.
 - (a) display in a conspicuous position, on the outside of his office, a sign bearing his name as a real estate dealer; and
 - (b) display in a conspicuous position, inside his office, the certificate of registration and the current annual licence issued to him by the Board.

4. A developer shall maintain an office for the purpose of carrying out a development scheme and shall display in a conspicuous position, in his office, the instrument of registration issued by the Board. Developer to maintain office and display instrument of registration.

- 5.—(1) A real estate dealer, real estate salesman or developer shall— Professional conduct.
 - (a) not engage in or assist in any improper or unprofessional practice;
 - (b) conduct himself in a manner so as to maintain the dignity and integrity of the real estate profession and shall at all times uphold the laws and regulations which relate to the practice of real estate business or real estate development, as the case may be;

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- (c) assist in maintaining the integrity of the practice of real estate business or real estate development, as the case may be;
- (d) avoid the appearance of professional impropriety;
- (e) observe these Regulations and encourage other real estate dealers, real estate salesmen or developers, as the case may be, to act in like manner;
- (f) expose, without fear or favour, before the Board, unprofessional or dishonest conduct of any other real estate dealer, real estate salesman or developer.

(2) Every real estate dealer, real estate salesman and developer shall act in a manner which gives due consideration to the instructions and requirements of his client or employer, as the case may be, and shall treat fairly, all parties to any real estate transaction in which he is involved.

(3) Where property is listed exclusively with a real estate dealer, no other real estate dealer or salesman shall enter into negotiations with the vendor of that property without the consent of the real estate dealer with whom the property is listed.

(4) The conduct of every real estate dealer, real estate salesman and developer towards his colleagues shall be characterized by courtesy and good faith.

(5) A real estate dealer, real estate salesman, or developer shall not discourage any party to a transaction in which he is involved from seeking legal counsel.

(6) A real estate dealer, real estate salesman or developer shall not knowingly permit any property under his control to be used for an unlawful purpose.

Claims as to
competence.

- 6.—(1) A real estate dealer, real estate salesman and developer shall—
- (a) not make inaccurate claims as to his competence or abilities in the areas of practice of real estate business or development for which he is registered or licensed; and
 - (b) undertake only such duties and responsibilities as are within his competence and for which he is properly registered or licensed under the Act.

- (2) Every real estate dealer and real estate salesman shall—
- (a) strive to maintain and improve the levels of his professional knowledge and competence and shall, to the best of his ability, endeavour to promote public knowledge and understanding of the practice of real estate business;
 - (b) endeavour to discover such facts which a prudent real estate dealer or salesman would discover in order to avoid error, misrepresentation or concealment of pertinent facts.

7.—(1) A real estate dealer shall keep such accounts as shall enable the financial position between his client and himself to be clearly and accurately distinguished. Clients money

(2) A real estate dealer shall account to his client for all monies in hand for the account or credit of the client, whenever reasonably required to do so.

(3) The Board, with the approval of the Minister, may make regulations prescribing the manner in which accounts shall be kept.

8.—(1) Except with the specific approval of his client in writing, given after full disclosure of his interest, a real estate dealer or real estate salesman shall not provide professional services in respect of any property in which he has a present or contemplated interest and in respect of which his personal and professional interests conflict, or are likely to conflict. Conflict of interest.

(2) A real estate dealer or real estate salesman, or any partnership of which he is a partner or company of which he is a director shall not act for more than one party to a real estate transaction without prior disclosure of that fact to each of the parties involved, unless permission in writing to do so has been obtained from all the parties.

(3) A real estate dealer or real estate salesman shall not acquire an interest in, or buy for any member of his immediate family, his company or any person employed therein or any other organization in which he has an interest, any property listed with him without full disclosure in writing to the owner of that property.

(4) Where a real estate dealer or real estate salesman, acting in such capacity, is selling or intends to sell property in which he has a

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legal or equitable interest, he shall, in writing, prior to the sale thereof, disclose the fact of his interest to the purchaser.

(5) A real estate dealer or real estate salesman shall not recommend or suggest to a client, the use of the services of another organization in which he has an interest, unless he discloses his interest in writing at the time he makes such recommendation or suggestion.

(6) Where an attorney-at-law is licensed to engage in the practice of real estate business either in the capacity of real estate dealer or real estate salesman, he shall avoid any conflict of interest, and shall disclose in writing to the client with whom he is dealing in any real estate transaction—

- (a) that he practises as an attorney-at-law;
- (b) the capacity in which he is offering his services;
- (c) the possible effect of his representation on behalf of the client if such representation is in more than one capacity.

Financial interest.

9. A real estate dealer or real estate salesman shall not accept or offer to accept instructions in a real estate transaction on terms which could reasonably be construed as taking a financial interest in the transaction, unless he first makes written disclosure of his financial interest to all the parties.

Notification to client of terms and conditions regarding payment of fees.

10.—(1) A real estate dealer or real estate salesman shall, upon accepting instructions to act for a vendor or lessor with respect to the sale or letting of property, as the case may be, notify the vendor or lessor, in writing, of the terms and conditions relating to the payment of his fees.

(2) No fees or expenses in respect of the sale or letting of property shall become due and payable until the terms of the sale or letting are settled and the transaction is completed.

Action prejudicial to practice of others.

11. A real estate dealer or a real estate salesman shall not—

- (a) agree to be engaged to act in any real estate transaction in which the client has, to his knowledge, previously engaged another real estate dealer or real estate salesman without first notifying the other real estate dealer or real estate salesman;

- (b) knowingly engage in any practice, or take any action which is damaging to the practice of another real estate dealer or real estate salesman.

12.—(1) A real estate dealer or real estate salesman shall not—

Soliciting
business.

- (a) offer to provide, whether to a prospective client or to a third party, any gift or favour whatsoever which is intended to attract or secure instructions for work;
- (b) seek an unfair advantage over other real estate dealers or real estate salesmen, nor injure directly or indirectly the reputation of, nor publicly disparage the business practice of real estate dealers or real estate salesmen, or conduct his business so as to foster controversy with other real estate dealers or real estate salesmen;
- (c) pay, for the introduction of a client, any fee or commission to a third party who is not a person licensed to engage in the practice of real estate business;
- (d) act or offer to act in any capacity in relation to any matter which is the subject of judicial or quasi-judicial proceedings, either on the basis—
 - (i) that no charge will be made unless the proceedings are successful; or
 - (ii) that the amount to be charged will reflect the degree of success attained;
- (e) when offering property to a prospective purchaser or lessee on behalf of a client, stipulate that his services be retained by that purchaser or lessee in any capacity;
- (f) offer real estate for sale or lease—
 - (i) without the knowledge or consent in writing of the owner thereof or his authorized agent; or
 - (ii) on terms other than those authorized by the owner or his authorized agent;
- (g) induce any party to a contract in respect of real estate to substitute another contract therefor.

(2) Notwithstanding paragraph (1), a real estate dealer or real estate salesman may properly solicit instructions for the sale or lease of property if—

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- (a) he does so in writing; and
- (b) he first ascertains that no similar instructions are in force with any other real estate dealer or real estate salesman in respect of that property.

Advertisements
and
announcements.

13.—(1) A real estate dealer or developer shall ensure that the content of advertisements published by him in pursuance of the practice of real estate business, or the development of land in a development scheme, comply with the requirements of the Act and all regulations made thereunder.

(2) A real estate dealer or developer shall ensure that all advertisements by him in respect of properties for sale contain the name and address of the real estate dealer or the developer advertising the property.

(3) Where an advertisement is published respecting the sale of property, the advertisement shall contain a statement specifying—

- (a) in the case of an advertisement by a real estate dealer, that he is licensed to engage in the practice of real estate business and the number of his licence; and
- (b) in the case of an advertisement by a developer—
 - (i) that he is registered; and
 - (ii) the registration number of the development scheme being advertised.

(4) A real estate dealer shall ensure that advertisements referred to in paragraph (1) do not contain—

- (a) any inaccurate statement of fact;
- (b) any explicit comparison between the services offered by him and the services offered by other persons;
- (c) any information concerning the identity of parties to the real estate transaction being proposed in the advertisement; or
- (d) any claim that he is a specialist or expert in any area of the practice of real estate business.

(5) Notwithstanding paragraph (4) (b), a real estate dealer may, in advertising property, state the branch of real estate business in which he is registered or licensed to practise.

(6) A real estate dealer shall not advertise a property for sale, lease or rental, or place any sign on any property without the authority of the owner in writing.

(7) Where the location, price, rental value, area of land or any other information is included in any advertisement, the real estate dealer or developer placing the advertisement shall ensure that such information is accurate.

(8) A real estate dealer shall ensure that every advertisement published by him in respect of property—

- (a) promotes the interest of his client; and
- (b) provides an accurate representation of the property.

14.—(1) Where a developer enters into a contract with a purchaser and has reason to believe that the scheme will not be completed within the time specified, either in an advertisement or as stated in the contract, he shall, in writing, advise the purchaser and the Board of the delay in completing the scheme and state the new estimated time for completion.

Notification of delay in completion of contracts.

(2) Where the cost of development has escalated, the developer shall—

- (a) in writing, notify the purchaser and the Board of such escalation;
- (b) set out in the notice, the factors taken into account when calculating the escalation cost; and
- (c) set out the base price of the unit at the time the contract was executed.

15. Where a real estate dealer and a real estate salesman enter into a contract between themselves they shall have regard to the provisions of these Regulations and shall, where practicable, include provisions relating to the compensation payable during the contract period as well as after the expiration or termination thereof.

Contracts between dealer and salesman.

16.—(1) Every person registered to practise real estate business shall have regard to the need for continuing professional education, training and development and shall participate in such courses as may from time to time be offered or directed by the Board.

Continuing education.

(2) The Board shall take into consideration any participation in courses under paragraph (1) as the basis of renewal of a licence.