

5. Commercial Property Leasing Dispute in Health Care Real Estate

Background

A real estate broker had an Exclusive Representation Agreement as broker and an Exclusive Development Agreement with Corporation A (A). Corporation Z (Z) purchased A. Z had an exclusive agency agreement with another real estate leasing broker. However, A's broker began interacting with real estate decision makers in Z and failed to clarify his duties and role given Z's purchase of A. A's agent continued to represent A, while Z's agent was silent regarding possible dual roles and conflicts. As a result, agent/principal relationships were unclear and conflicting, causing confusion and problems for the client.

Ultimately, Z was sued for a commission payment that both agents believed they had earned. In addition, at least two major projects were substantially delayed.

Issues

The real estate agents had a duty to clearly establish their duties and responsibilities to the principals. The lack of clarity was confusion and detrimental to the client.

Outcome

Z retained Dr. Musil as a consultant and expert witness. Dr. Musil completed the Expert Report and Analysis. Through litigation, Z established a policy whereby exclusive agency representation agreements were avoided.