

10. Standard of Care for a Freddie Mac Foreclosure Sale

Background

A real estate agent listed a property for sale under a Master Listing Services Level Agreement (MLSLA) prepared by Freddie Mac. Properties listed for sale under this agreement are distressed and have been repossessed by Freddie Mac. Due to the varying conditions of repossessed properties, listing agents' duties include managing and preparing the properties for sale. The MLSLA referenced a Supplier Code of Conduct and a QuickSteps for Brokers Guide as resources and standards for listing agents.

The MLSLA identified the role of the listing agent to include the typical duties of marketing the property for sale. The listing agent was also responsible for property management and maintenance. According to the MLSLA, the goal of the agent's management and maintenance responsibilities was to "place and keep the Property in a condition to be shown for sale." Additionally, the MLSLA required weekly inspections of the vacant property by the listing agent. The required inspections focused on potential problems like break-ins, vandalism, and other conditions that could compromise a sale.

After closing on the property, the new homeowners failed to locate the correct gas shut-off valve. The incorrect valve line was opened and the buyers experienced a fire resulting in severe injuries. The buyers claimed that the listing agent should have understood the condition of the gas line and the danger that it posed.

Issues

The agent was authorized under the MLSLA to use approved contractors and vendors or to obtain bids in order to maintain the property. This type of arrangement is typical in property management, where the manager relies on trained or licensed contractors or vendors to perform specialized work.

The professional practices of the listing agent were consistent with the duties required under the MLSLA and the responsibilities of a real estate licensee. The property was maintained in a condition to be sold and was not damaged, vandalized, or otherwise adversely affected during the period in which it was listed for sale.

Outcome

Dr. Musil prepared an Expert Report concluding that the listing agent's responsibilities were performed and met the requisite standard of care. The case settled.