

3. Real Estate Agent's Failure to Disclose Property Defects

Background

A real estate broker entered into a brokerage (listing) agreement with the property owners. The property listing mentioned a 35-ft. boat dock. However, the sellers had agreed to exchange their 35-ft. dock for a neighbor's 20-ft. dock. This information was not conveyed to the buyer, who discovered the discrepancy in dock length after closing on the property.

The buyers sued the sellers for misrepresentation. The sellers incurred damages of approximately \$78,000. The sellers then sought to recover damages from their real estate broker and agent.

Issues

The listing broker for the sale of the property had a duty to protect the interests of the sellers, to provide accurate and complete information about the property to prospective buyers, and to investigate possible issues surrounding the representation of material facts that a prospective buyer would rely upon when purchasing the property.

The deposition testimony of the listing broker indicated that she understood the importance of the length of the dock and that the sellers had notified her regarding the 20-ft. length of the dock.

Outcome

Dr. Musil prepared the Expert Report. The case settled in favor of the sellers.