



HOME INSPECTIONS

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Home inspections are often one of the most important considerations in a real estate transaction, influencing buyers' decisions on whether to proceed with purchasing a home. Naturally, real estate agents want to assist their clients as much as possible during this process. However, in doing so, agents could unknowingly create potential liability exposure for themselves and their brokerage. The adage, “no good deed goes unpunished,” often rings true in these situations, so agents must be careful to avoid overstepping their role in their efforts to assist clients. To mitigate potential liability regarding home inspections, agents may want to consider the following:

Ordering the Inspection and Attendance: All home inspections should be performed under an agreement directly between the client and the inspector. Agents should not order the inspection or contract with the inspector. While it is best for agents to attend the inspection with their clients, they should avoid attending in place of the client whenever possible.

Inspector Referrals and Recommendations: Although most agents are familiar with various inspectors, they should avoid steering clients to any specific inspector. If clients ask for recommendations, agents should refrain from actively recommending or vouching for any inspectors. Instead, agents should provide the names of multiple inspectors and make it clear that clients should conduct their own due diligence in vetting and selecting an inspector.

Conduct During the Inspection: Agents should avoid inserting themselves into conversations between the inspector and the client during the inspection. Clients should be the active participants in all discussions with the inspector regarding findings.



The Inspection Report: The inspection report should be sent directly from the inspector to the client. If clients wish to discuss the report with their agent, they can do so at their discretion. Agents should refrain from offering their own opinions on the report's findings and should not interpret or explain the content of the report. Any questions about the report should be addressed directly by the inspector to avoid the risk of agents providing faulty information.

Waivers of Inspections: While agents should explain applicable inspection contingencies to their clients, they should not dissuade clients from obtaining inspections or offer opinions on which inspections are needed. These decisions should be made solely by the client. Additionally, standard home inspection reports often recommend further inspections for mold, pest infestations, structural problems, or other issues. The decision to obtain additional inspections should be made by the client, and agents should avoid influencing this decision-making process by offering their own opinions. While this article does not cover all potential issues related to property inspections, we hope it provides a general guide to help identify potential pitfalls and offers recommendations for minimizing agents' and brokers' potential exposure regarding property inspections.

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