

Property Management 101

Hello Michigan Realtors® and welcome back to the Letter of the Law. Over the last few weeks, we have had numerous requests for an overview of the requirements for property management in Michigan. It is an often-confusing area of our regulatory structure under Article 25 of the Occupational Code. While this is not lengthy episode, perhaps even a “short” as the kids say, it is no less important to understand the requirements and the key considerations when engaging in property management.

The Scope

Under Michigan law, a person who engages in property management for others must be licensed as a real estate broker. A real estate salesperson can perform property management activities but only on behalf of their brokerage firm. As with listing contracts, it is the brokerage firm who contracts with the owner in a property management agreement.

“Property management” is defined as leasing or renting real property of others for compensation. This would include activities such as advertising rental properties, showing properties to potential tenants, processing rental applications, negotiating leases, and collecting security deposits and/or rent payments. That said, owners who directly manage their own property need not be licensed and may have unlicensed employees perform property management functions.

The Agreements and the Accounting

It is very important to note that Brokerage firms acting as property managers must enter into property management agreements with their owner-clients. Under Michigan law, these agreements must describe the broker’s duties and responsibilities, including the handling and management of funds collected.

More important still, Michigan law requires a broker to maintain a property management account separate from the broker’s other accounts. Th account may be interest- bearing unless the property management agreement says otherwise. Account records must show the date of all transactions, identify the payor or payee and include any other information required by the property management agreement.

Supervision

The Code’s requirements regarding broker supervision apply equally to a salesperson’s property management activities. Brokers must be in direct communication with their salespersons, establish written policies and procedures and regularly review their salespersons’ performance. Keep in mind, however, that adequate supervision is not just a Code requirement. Putting aside the supervisory requirements under the Code, brokers

need policies and procedures in place to protect themselves. A broker is responsible to the owner of the property for the actions of their salespersons. If, for example, a salesperson “borrows” some of the security deposits, the broker will be responsible for the missing funds.

Conclusion

One of the biggest takeaways here is that Salespersons cannot get into the property management business of others on their own. To that end, a brokerage firm must decide whether it wants to be in the property management business. Before getting into the property management business, a brokerage firm must make sure that it has appropriate insurance coverage in place. Standard real estate broker E & O policies often do not cover property management activities. A brokerage firm who wants to be in the property management business should also develop policies and procedures to supervise the operation.

Ok, that’s all for today. We appreciate all the helpful feedback and the ideas for future installments. Please keep them coming at the email in the description. Until next time, on behalf of your state association, we wish you continued success!