



# WASHINGTON REALTORS®

## Legal Hotline Q&A of the Week

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### Question:

My question relates to the extent to which brokers/firms should be reviewing title reports and advising clients in any way other than to contact the issuing title company with any questions. Another way to state this is to ask whether real estate brokers are licensed to review and make judgments about the contents of a title report, and, should managers be encouraging brokers to review and presumably act in some fashion on what the broker finds in the contents of the title report? If broker/firm involvement in title report review is considered an integral part of a broker's responsibilities, it seems that courses in title report review an interpretation, or something along those lines, should be a required part of real estate education and licensing requirements. Am I off base?

### Answer:

As is true with so many things a real estate broker does, a broker is expected to recognize the limitations of broker's licensing and insurance and must advise a client to seek the advice of an expert when an issue exceeds broker's expertise. Brokers MUST review the preliminary commitment for title. Broker must review the preliminary commitment and be able to recognize issues such as a potential that the property will be a short sale or that the property is impacted by CC&Rs that could be relevant to a client or that the property is in a special tax classification creating a subject that may need to be negotiated between the parties prior to mutual acceptance or that the "seller" who signed the listing agreement is not identified as the holder of fee simple title or an unlimited supply of other facts that could be relevant to buyer or seller. Broker must review the preliminary commitment for title and must be competent to recognize issues that could adversely impact seller's ability to transfer title or buyer's use of the property.

Broker is not, however, required to solve the problem for the parties or even advise the parties as to how to proceed other than to seek the advice of a relevant expert. A client may need to speak to the title officer, to a lawyer, to a surveyor, to a lender or to some other expert. Broker must understand enough about a title report to recognize when there is a problem and enough to know whether it is a problem that broker can solve or a problem necessitating broker's advise to seek other expert assistance.

If a broker takes the position that broker is not a title expert and thus, refuses to review preliminary commitments for title, broker will eventually be in a position where title cannot transfer because of a problem that broker should have recognized weeks earlier. Again, broker may recognize a problem that broker cannot solve or that cannot be solved by anyone, in time for a closing. In a situation like that, broker should have enough expertise to advise additional assistance but also recognize that a listing should not be taken or that a buyer should move on to find other property. It is up to every broker to get education on this topic (and every other topic encountered by real estate brokers) to be able to properly assist clients with real estate transactions.

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