Topic 2

Video

1. What guidance does this case provide about ‘pro-active cold-calling’ and where to draw the line in terms of avoiding activities that can lead to a finding of unsatisfactory conduct?

1. Answer should relate to:

The CAC noted ‘there is nothing wrong with proactive cold calling, but that does not permit, as in this case, a licensee to short circuit the process’.

The licensee should have made sure an agency agreement was in place and provided a written appraisal to the client before submitting offer documents.

Video

2. Would the registered valuation provided have met the requirements of rules 10.2 and 10.3 if it had been more up to date? Why / why not?

1. Answer should relate to:

No, it wouldn’t.

Rule10.2 obliges a licensee to provide a written appraisal to a client and is supplemented by rule 10.3. Rules 10.2 and 10.3 do not allow for an exception or a contracting out arrangement.

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3. What reasons did the agent licensee give for not providing a written appraisal in accordance with rules 10.2 and 10.3?

1. Answer should relate to:

His reason for not doing so is that there were few, if any, comparable properties to assist with an appraisal and in the interests of transparency the company obtained a registered valuation.

4. What should the agent licensee have done to avoid a finding of unsatisfactory conduct in relation to rules 10.2 and 10.3?

Answer should relate to:

1. The [agent licensee] could have simply complied with rules 10.2 and 10.3 in addition to obtaining the registered valuation, by still providing an appraisal, but also providing written explanation that no comparable or semi-comparable sales information existed (to comply with rule 10.3).

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5. What appraisal information did the branch manager say he provided to the client in this case?

* Answer should relate to:
* The branch manager’s evidence was that he gave the vendors a single-page document headed ‘[Agency’s] Comparative Market Sales Appraisal’ (‘the [Agency] appraisal form’).
* This document contains a section headed ‘Details of comparable properties available for analysis’, then a bold heading ‘Sale’. There are then sub-headings ‘Your Property’, ‘Recent Sales’ and ‘For Sale’. For each of these sub-headings there are columns headed ‘Govt value $’, ‘Bedrooms’, ‘Land (m2)', ‘List Price’ and ‘Sold Price’.
* Underneath this section there is a box labelled ‘Taking the above comparisons into account we would expect the market value of your property to be in the range of:’ In the space alongside this, the branch manager wrote ‘around $1,100,000’. In a ‘Comments’ box the branch manager wrote ‘CMA is attached along with PIMs of some of our recent sales’.
* The branch manager’s evidence was that he gave the vendors an appraisal of the property (at ‘around $1.1 million’). He suggested that the appraisal form was included in the package of documents given to the vendors, and was overlooked when they signed other documents.

6. In which ways did the Tribunal say the appraisal information provided did not meet the requirements of rules 10.2 and 10.3?

1. Answer should relate to:

None of the sections on the agency appraisal form had been filled in.

The appraisal form was signed by the branch manager and dated. It had not been signed and dated by the vendors.

The Tribunal said:

‘Even if the branch manager had given the vendors an oral explanation of the ways in which the sales list and the PIMs provided the comparative information from which an appraisal could be provided, that patently would not have satisfied the requirement for the appraisal to be in writing.’

The Tribunal also said:

‘We find that in the present case, the vendors were not given a written appraisal of the property.

‘While the real estate agency appraisal form provides for information to be given (which would go some way towards satisfying the requirements for an appraisal), no such information was set out.

‘Further, in light of the fact that the form was not signed by the vendors, whereas other documents they were given were signed (the agency contract itself, the agency's schedule of fees, and the marketing proposal), we accept the vendors' evidence that the branch manager did not give them that form.’

7. What did the Tribunal say is required to comply with rules 10.2 and 10.3?

1. Answer should relate to:

The Tribunal referred to the consideration of rules 10.2 and 10.3 in *Rodgers v Real Estate Agents Authority*, in which it was agreed that:

‘... an appraisal needs to do more than simply show a prospective client comparable properties and sales figures and must inform the prospective client why the properties have been selected and how that information translates into the appraised price that the licensee has arrived at for the property.’

The Tribunal noted that, in this case in question, the real estate agency’s appraisal form ‘does not provide for any explanation as to how properties have been selected for comparison, or how that information translates into the appraised price arrived at.’

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8. What should the licensee have done to avoid a finding of unsatisfactory conduct in relation to rule 10.2?

1. Answer should relate to:

The licensee should have ensured she had a signed listing authority in place and should have ensured she provided an appraisal under her new agency, real estate agency B.

9. Which two steps should be included in a property inspection?

1. Pre-inspection sourcing of information.

* the physical inspection of the property / space / business

10. Give an example of a situation when it would be necessary to provide a determination of highest and best use when appraising a property.

1. Answer should relate to:

Determination of highest and best use or alternative use is applicable if the property / space could be used for a different purpose. For example, an old, low rise block of apartments may occupy land which is capable of supporting a modern high-rise block of apartments. If the entire block were being appraised, consideration should be given to alternate uses.

11. If you are appraising a property / business / lease for which no comparable or semi-comparable sales information exists, what must you do to comply with rule 10.3?

1. Answer should relate to:

You must explain to the client in writing that no comparable or semi-comparable sales information exists

12. Explain the importance of completing an accurate appraisal in terms of meeting your obligations under rule 10.6.

1. Answer should relate to:

Rule 10.6(a) specifies that an estimated cost of commission (actual $ amount) must be explained and set out in writing to the client before an agency agreement is signed.

Since this information will be based on the appraised value of the property, this confirms again the importance of a thorough and robust appraisal process.

13. Give an example of when it would be necessary to make an adjustment when preparing an appraisal based on comparable sales.

1. Answer should relate to:

Differences could arise from special features, level of renovation, impact of boundary restrictions, zoning factors, site factors, age of sale etc.

For example, if a comparable property is identical to the subject property, with the exception of it having a deck, it would be necessary to determine the value of the deck and then deduct the deck’s value from the comparable property’s sale price.

14. Give four examples of ‘red flag’ issues that would need to be investigated as they may have impact on the appraisal.

Answer should relate to:

1. See list suggestions in Appendix 3

Video