



CHEROKEE ASSOCIATION OF REALTORS® GAR COMMITTEE REPORT FORM

Committee: Legal Action Committee

Meeting Date: Wednesday, September 9, 2015

Member Attended: Iva Rebecca Butler - Local Director filling in for State Director

Association Executive Report Submitted To: Karen Cunningham

Date: October 14, 2015

Items Discussed:

First Discussion: Porterfield (Seller) vs. Owens (Buyer) vs. 3rd party defendant, Kathie Marable (Realtor), presented by Tom Gillette, Topic: Law Suite regarding Special Flood Hazard Area, \$60K spent thus far defending Selling Agent and her company. My understanding is Porterfield's property was on the market for 2 years before it went under contract with Buyer Owens. The Seller's Property Disclosure Statement stated property was not in a flood plain – 1995 survey showed property not being in flood plain. A new survey was ordered revealing property **was indeed located within a flood plain**. Realtor Kathie did not extend the "due diligence period" allowing time for the new survey to be completed, so due diligence ran out. The Buyer terminated the contract based upon misrepresentation of Seller's Property Disclosure Statement. Law suit has been ongoing for a year or more. The Committee approved Seth Weissman to call defendant's attorney (1 hour consult for \$500.00) to see if resolution could be made. The case is going to trial in early 2016, and a negative outcome could potentially create legal liability for Georgia Association of Realtors Forms. NOTE: SELLER & BUYER ARE BOTH DOCTORS.

Second Discussion: Injury of person(s) on one's property: If someone is trespassing on property, the owner of that property does not have to protect individual against injury. If person is invited onto property by the owner, then owner must protect an injury. Example: Brochure box – person was injured from walking around the property, tried to sue the owner; courts found no invitation and dismissed.

Thoughts (Relevancy to CAOR):

Realtors should extend Client's due diligence period or cancel the contract before expiration occurs if Seller does not want to extend the due diligence period. A new offer can be written if necessary. Protect your Client, yourself and your company!

NOTE: There is a "legal defense fund" available for Realtors through GAR

Signature