



Why You Don't Need to Give Out Three Business Cards

Some real estate agents believe that they must give out three different names when referring a mortgage lender. This is not true. Here's why:

No RESPA Violation

There was an old rule in the Real Estate Settlement Procedures Act (RESPA) that allowed real estate agents to earn a separate fee from the buyer if they help the buyer "evaluate financing options". Most real estate agents didn't charge this extra fee to buyers and therefore had nothing to be concerned with in this area. However, the agents who did charge this fee to the buyer were required to help the buyer evaluate financing options among many different lenders. Otherwise, the extra fee would have been considered a referral fee. Contrast that old rule with today's RESPA and Dodd-Frank requirements that require real estate agents to be licensed and regulated as mortgage loan originators in order to earn fees for helping buyers evaluate financing options.

In other words:

1. The rule requiring you to refer the buyer to multiple lenders only applied in the past IF you were charging the buyer a fee to help him/her evaluate financing options.
2. There is no such rule that exists in today's environment because you can't earn a fee for this type of activity unless you become a licensed loan officer yourself, and unless you perform substantive loan origination activities as defined by HUD.
3. Nothing in RESPA or any of the other mortgage or real estate regulations prohibits you from referring your clients exclusively to one lender. You're simply not allowed to get paid a fee or something else of value for referring your clients to a mortgage lender. In other words, no referral fees, no gift cards, and no other gifts or fees can be given to you in exchange for a referral.



This brings us to the second point:

No Legal Liability

There is no law or regulation that requires you to hand out three or more business cards in order to avoid legal liability. You are legally responsible for your actions as a real estate agent, and the mortgage lender is legally responsible for his/her actions as a mortgage lender. You don't have legal liability for what the lender does, and the lender doesn't have legal liability for what you do. It's that simple. The only way this would not be the case is if you were to conspire with the lender to do some illegal activity together (such as paying or receiving a referral fee). Further, you can't REQUIRE a borrower to get financing through a specific lender. However, you are certainly allowed to refer your preferred lender to the buyer for an approval (although the buyer can get his/her financing from any other source if they desire to do so).

Contact your Sr Mortgage Specialist for more information!

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