



Legal Question of the Week

By Jim Van Winkle

I am sure you have thought about throwing away some of those extra papers while doing some spring cleaning at the office. After being in business for any period of time, no doubt you have collected drawers and piles of client files. However, before you are tempted to toss anything in the trash, think about what exactly you are throwing away. More importantly, double check if the document or file headed for the trash is one you're required to maintain.

So how long are you required to keep transaction records? NAC 645.650 requires a broker to keep records for at least five years. That's five years after the date of a closing and/or the last activity involving the property, including without limitation, offers that were not accepted and transactions that were not completed. The code even requires you to maintain records for incomplete transactions!

You really need to think about it like this: *"If my brokerage was sued, or involved in some sort of a legal dispute, wouldn't I want every file as complete as possible to support the position that I did everything correct?"*

In addition to the requirement by the Nevada Real Estate Division to maintain the files for inspection and audit, it really is in yours, and your client's, best interest to maintain complete records.

NAC 645.655 describes the manner in which trust account records must be maintained. The trust account records must be numbered consecutively to permit an audit by the Division. They must also be kept in the State of Nevada and open for inspection or audit by the Division during normal business hours. Furthermore, if these records are stored electronically, the Division must be able to access a computer for the inspection or audit.

Keep in mind, this NAC refers to the "brokerages" and "brokers" duty to maintain records. If you are an agent and have any doubt that your broker is failing to maintain records in the proper way, question them! Although the ultimate responsibility is that of the broker's, if you are ever involved in a legal dispute, you would want superior diligence in making sure files you worked on were thoroughly maintained.

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