



Buyer Beware: *You may be on camera*

By: Tiffany Banks, NVAR General Counsel

We have had an increasing amount of calls about surveillance in homes lately, and what is and is not allowed. Some of the questions we have received include: Are sellers allowed to keep those cameras on and running, at all times? Can my agent request the camera be turned off during a visit to the property so I can discuss what I like and don't like about the property? Is the seller really allowed to record my conversation with my agent and then later use it against me when negotiating? Should my client be using the "nanny cam" as a way to hear what potential buyers think about blue tiles, or pale pink walls in the master?

Surveillance is beneficial

Why is surveillance even part of the discussion these days? The use of surveillance to monitor, or even prevent criminal activity is of the utmost importance. There are two reasons why surveillance in the home is beneficial. With increasing concerns over REALTOR® safety, it is safer having cameras on, and to go even a step further, having someone watch the cameras if something were to happen.

In addition, there has also been an increase in items being stolen from a property during a showing. Although a best practice for sellers with very valuable items would be to lock up their valuables, or remove them from the house during a showing, sometimes this isn't very practical, especially for those last-minute showings! A recording of the home could help catch the proper criminal.

Now that we have briefly discussed why surveillance is beneficial, read below about some of your frequently asked questions on this topic.

Answers to some of your most asked questions:

Q. What should I discuss with my buyer before entering a property if there is the possibility of cameras?

A. The best idea would be to suggest your client hold off on making comments, whether good or bad about the property, until you leave the property. Meet for coffee after, have the buyers jot down the likes and dislikes of the property while walking through it so they don't forget. Most importantly remind them, while in another's home there is not a reasonable expectation of privacy, so keep comments to themselves.



invested in you.

Q. Can my client ask me to request that the camera be turned off during a visit to the property so they can discuss what they like and don't like about the property?

A. I am sure you can request the seller turn the camera off; however even then your client should be cautious about what they say just in case one of the cameras is still left on.

Q. As a brokerage, can I create a form asking my clients if they have surveillance in their homes?

A. There is nothing prohibiting you from creating such a form. However, make sure any form created internally is always reviewed by an attorney first.

Q. Should my client be using the “nanny cam” as a way to hear what potential buyers think about “blue tiles, or pale pink walls in the master?”

A. The answer to this is absolutely not. Remember to treat others how you would want to be treated. While there are many important safety reasons to monitor your house, the camera should never be used for this purpose, as tempting as it may be to get honest feedback.

RSAR recently asked Bonnie Drinkwater, Esq. to create a white paper on this very topic. The goal of this is to create best practices for REALTOR® members when faced with audio/visual surveillance questions. After a careful review of this article along with the white paper, if you still have questions, call the legal information line at 800-748-6999.

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