

OVERLAPPING SHOWINGS



An overlapping showing occurs when the listing agent/seller permits multiple agents to tour a home simultaneously with their clients.

Overlapping showings increase risk by:

- Impeding agents from keeping track of who is in the home.
- Increasing the chance of unauthorized &/or unsupervised parties from entering the home.
- Creating a misleading record of which agent was responsible for the security of the home at any given time.

If an incident occurs:

- The person ultimately liable for the damage is the “possessor” of the property.
- Certain courts have held that agents are “possessors” of the property during a showing.
- Overlapping showings make it unclear which agent is the “possessor” at any given time.
- The agent on record as the last to open the lockbox and hold the key is most likely to be considered the “possessor”.
- Overlapping showings expose an agent to potential liability even if the damage did not occur during the showing or in the agent’s presence.

Potential sources of liability for agents:

- Potential buyers are most likely considered “invitees”, which means they are owed a higher duty than a “licensee” or a “trespasser”.
- Agents likely have a duty similar to that of the homeowner - to make the premises reasonably safe for invitees and to warn invitees of any danger.
- An agent could be liable if a potential buyer suffers an injury due to a dangerous condition on the property during the showing.

Property Damage:

- Agents have a duty to exercise reasonable care to protect the seller’s property.
- An agent could be liable if potential buyers cause damage to or steal the seller’s property while not reasonably supervised by the agent.

RISK AWARENESS



Third-party intruders:

- The duty of reasonable care includes making the premises secure during a showing.
- An agent could be liable for personal injury, property damage, or theft if the agent fails to take reasonable care to secure the home during a showing, even if perpetrated by an unknown third-party.
- Failing to secure the premises could lead to a physical assault by a third party.
- Allowing multiple potential buyers into the home at the same time could lead to conflict or aggression between buyers.

To reduce risk of liability:

- Inspect the premises (interior & exterior) before a showing to ensure no dangerous conditions exist.
- If a danger is observed, either fix, remove, or make the dangerous condition obvious to potential buyers.
- Supervise potential buyers to the greatest extent possible and know who is in the home at all times.
- Note and report to seller any damage that existed before the showing started.
- Do not allow any unknown parties into the home while you are in possession of the key.
- Do not allow another agent to use a key that you have removed from the lockbox. Instead, return it to the lockbox and invite the next agent to check it out.