Language Unbecoming a Real Estate Professional... By Harvey Gamble, REIX

As children, there were certain words we were taught not to say. In fact, we could suffer having our mouths washed out with soap for saying those certain words. I can remember the threat, if not the actual experience. I must have blocked it from my memory!

Today in our real estate industry there are some terms that should have that same threat applied to them. Two of those terms would be “mother-in-law suite” and “non-conforming suite”. In the vast majority of cases, the suite in question is neither. In fact, the only terminology that can safely be applied to these suites is “illegal”.

In order to call a suite a “mother-in-law suite” it has to be exactly that...used for the mother in law to live in. We recently had an Industry Member tell a client that the term “mother-in-law suite” was a generally accepted term for an additional suite in a house. Later, after the client had closed on the purchase and rented both suites, they could not understand why the city was giving them notice to vacate if the real estate industry thought it was “generally acceptable”. They have sued their Industry Member.

If the seller has their mother-in-law living in the suite, you can refer to it as such. However, you still have to inform any buyers that it is an illegal suite and cannot be rented. If your buyer is really going to have their mother-in-law come live with them and that is why they are looking for a property of this kind, then you can refer to it as a “mother-in-law suite”. However, you still must inform them that it is actually an illegal suite and can never be rented out.

The same applies to the term, “non-conforming suite”. In most municipalities this only applies to a building that was in compliance for the number of suites that it had, but due to down zoning was no longer in compliance. Most municipalities allow these to continue and refer to them as non-conforming.

However, when an additional suite is created in an area not zoned for that it is considered illegal, not non-conforming. Even if the zoning allows for additional suites, there are a number of other criteria that must be met in order for a suite to be legal. Trying to gloss over criteria that has not been met by calling the suite non-conforming won’t work. It is still illegal!

Other terms that should be mentioned here include “mortgage helper” and “income potential” among others. If you are enticing someone to purchase a property under false pretenses, that is fraud. If you knowingly misstate a material fact on your listing, you may even void your insurance coverage (see Part IV, clause 4.1 (e) of your E & O policy).

Generally, the lawsuits we see on this issue (and there are quite a few) are attempting to not only recover the loss in value for this property that is no longer an income property, but also recover the loss of income for however long they had planned to keep it. This can really mount up!

So, before REIX has to send bars of soap out to every Brokerage, let’s just make a point to never utter those words again.

If you have any questions or would like to discuss this further, please contact REIX.