



CLAIMPREVENT® BLOG

## Why Real Estate Brokers and Licensees Should Not Request Inspections

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As a broker, we know you want to be helpful to your clients. You want your team to be helpful too and provide a high level of customer service. The aim is to make your client's property selling or purchasing journey as stress-free and enjoyable as possible. But there's a limit to how far brokers should go, whether you're acting for the seller or the buyer. Remember, you need to protect yourself and your business from liability.

**That is just one of the reasons why brokers and licensees should never request inspections on behalf of their clients.**

While you might think you're just being helpful, going above and beyond your responsibilities as a broker or real estate professional can lead to costly outcomes.

### Recent Tampa Bay Case

Recently a Tampa Bay brokerage was sued because a house that one of their real estate licensees sold was found to have termite damage post-purchase. In this case, the real estate licensee organized the termite inspector who had cleared the home before the buyer purchased the property. The purchaser relied on that inspection report when deciding to purchase so was naturally very unhappy when the termite damage was found four months after closing. It was not only damaged by termites, there was also an active termite infestation.

An investigation was then conducted to ascertain whether the contractor was a licensed exterminator — he wasn't. The homeowner launched a claim against the seller/previous owner of the property for fraudulent non-disclosure. However, because the real estate licensee had engaged the contractor to do the termite inspection, a claim was also made against the brokerage where he works, alleging negligence.

**This is a timely reminder that brokers can be held responsible for the actions of their team.**

## The Danger of Preferred Contractor Lists

It's not uncommon for brokers to have a list of preferred contractors to go to for various things. Over the years, you get to know others working in the industry, make connections, and it's nice to have some trusted people to turn to when you need things, right? Wrong. **Ordering inspections for properties to help buyers to decide whether to purchase or not is beyond your responsibilities as a broker or real estate professional.** Even if you spend a great deal of time and resources to ensure you're using great quality contractors, there is still a risk that something may go awry. If it does, your brokerage can be held liable.

## What You Can Do To Avoid a Lawsuit

The main way you can avoid a lawsuit is to not get involved in inspections at all. You should:

- Recommend to any prospective purchasers that they do their own due diligence
- Suggest inspections should be conducted before they make a decision

- Outline that you can arrange for access to the property to allow these inspections to occur
- Do not recommend companies to do the inspections
- Steer clear of having preferred contractor lists
- Do not organize any inspections
- Ensure you have a policy at your brokerage to guide your team, so they know what not to do
- Establish a risk management framework and regularly monitor your risks, so you can keep ahead of any potential issues

While real estate professionals have a responsibility to visually inspect a property and disclose any known defects to buyers, you are not obligated to arrange a professional inspection yourself. The prospective buyer should arrange this independently.

## Educate Your Team

It's important for brokers to educate their teams about risk management and why it's not a good idea to recommend contractors or organize inspections. Keeping an arm's length away from the inspection process can help protect your team and your business.

Regular training and team meetings to reinforce your expectations and preferred ways of doing business will ensure your whole team is on the same page. You should also cover risk management as part of your induction process for new team members.

## Protect Your Brokerage

Having the right insurance coverage is so important for brokers. It helps you to minimize your liability and protect yourself and your team if a claim is made against you. CRES offers **real estate E&O Insurance** with optional inclusions to cover your team. We can tailor your policy to suit your business needs. With CRES E&O + ClaimPrevent®, you'll get access to qualified attorneys who can answer any risk management questions you may have, 7 days a week.

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