

3090 REAL ESTATE LISTING CONTRACT: BROKER'S COMMISSION ON SALE SUBSEQUENT TO EXPIRATION OF CONTRACT CONTAINING "EXTENSION" CLAUSE

The real estate listing contract involved in this case provided that the contract was to be in effect until _____, and, in addition, provided that if a sale was made during an extended period of _____ months after that date, to a person with whom the broker had negotiated during the term of the contract, then the broker was entitled to the commission.

A broker who works under such a contract is entitled to a commission if two conditions are satisfied; first, if a sale is made during the extended period of the contract to a person (called the actual purchaser) with whom the broker dealt during the original stated term of the contract; second, if the dealing went to a point where that person could be considered a likely purchaser before the original period of the contract expired.

In determining whether the actual purchaser in this case was a likely purchaser in the meaning of the law, you should consider whether under all the facts and circumstances it was probable that as a result of the broker's activity the purchaser would make an acceptable offer during the extended period.

COMMENT

This instruction and comment were approved by the Committee in 1975. Editorial changes were made in 1993 to address gender references in the instruction. No substantive changes were made to the instruction.

Jessup v. LaPin, 35 Wis.2d 186, 150 N.W.2d 342 (1967); 51 A.L.R.2d 1149, 1158, 1181.

This instruction is to be given only if the real estate listing contract contained a subsequent sale "extension" clause and if the sale or exchange was made within the terms of such extension of seller's liability to broker.