



LEGAL AFFAIRS COMMITTEE

PURPOSE OF THE COMMITTEE

The purpose of the Committee is to review all requests for legal assistance from individual Realtors® and Realtor® Associations/Boards, and to recommend appropriate action on such requests to the Executive Committee and the Board of Directors of the New Jersey Realtors®.

The Committee's basic area of interest is with legal matters which generally affect the rights of all Realtors®, or the real estate industry in general, rather than matters with parochial or limited affect.

In order to properly serve the interests of Realtors®, it is essential that the Committee is advised of potential threats to Realtors'® rights at the earliest moment. Experience has shown that any delay in reporting cases to the Committee usually prejudices New Jersey Realtors® opportunity to effectively participate in the protection of Realtors'® rights. Accordingly, the Committee is unlikely to recommend New Jersey Realtors® involvement in cases where it determines that the delay in reporting an action has been prejudicial. Moreover, it is preferable that prior to making a request for assistance, the applicant for Legal Action assistance should procure a recommendation from his or her local Association/ Board of Realtors®.

Assistance is granted on a case-by-case basis on terms and conditions by the Committee, recommended to the Executive Committee and approved by the Board of Directors. Assistance may be in the form of legal advice from New Jersey Realtors® Counsel, intervention by the New Jersey Realtors® in litigation, or by financial contributions or loans from Legal Action funds to assist the applicant.

BACKGROUND

New Jersey Realtors®' policy of legal assistance was adopted in 1967 and was the first in the nation on a state level.

In 1975, President John D. Cotney, Jr., appointed a Legal Aid Review Committee to assess the operation of the policy and develop recommendations for improvement. The Review Committee concluded that procedures for obtaining legal assistance were cumbersome and should be simplified to enable the New Jersey Realtors® to learn about cases of class importance in the early stages.

The Review Committee concluded also that depleting New Jersey Realtors®' current account to provide legal assistance was not good business practice. Accordingly, they recommended that the legal assistance program be financed by imposing a special \$10 assessment on all Realtor® members and a \$4 assessment on all Realtor Associate® members. Monies so raised to be administered as a trust fund.

The recommendations of the Review Committee received Director approval in October 1975 and are the basis of current operation. In 1994, the Directors approved the recommendation that dues monies fund legal action assistance and that a legal action assessment be imposed on only new members. Under these past and current procedures, legal assistance has been provided in numerous cases, including the important New Jersey Bar Association, Pomanowski and Opinion No. 26 cases.

I. The Applicant's Request for Assistance:

- A. The applicant shall cause their attorney to submit a written statement to the Legal Affairs Committee [hereafter "Committee"], which shall contain the following information:
1. A statement of all pertinent facts.
 - a. In cases where litigation has not yet commenced, copies of all relevant documents such as correspondence, contracts, applicable state and municipal rules, legal citations and memoranda shall support this statement of facts.
 - b. If litigation has already been commenced, the statement of facts shall be supported by (i) all the documents referred to above, (ii) all documents on file with the Court – i.e. all pleadings and briefs and (iii) all other relevant documents.
 2. An outline of all legal issues.
 3. An explanation of how the issues in the case impact upon Realtors® in New Jersey.
 4. An opinion by the applicant's legal counsel indicating the likely outcome of the case, supported by reasons.
 5. A statement as to the character of support the applicant is seeking from New Jersey Realtors®--i.e. (a) Financial aid, (b) moral support, (c) the New Jersey Realtors® participating as amicus curiae or as an intervener, or (d) some other specific form of relief.
 6. A certification by the applicant as to the legal fees already incurred by them and the amounts paid thus far, supported by itemized receipted bills. The applicant shall be responsible for the payment of their attorneys' fees and litigation expenses to the extent of the first \$1,000 incurred, and the applicant shall so certify that this sum has been or shall be paid by him before receiving any financial aid from New Jersey Realtors®.
- B. The applicant shall furnish their local Realtors® Board with copies of all of the foregoing material and shall so certify to the Committee.

- C. In the event the application pertains to a claim for money damages against the applicant, the applicant shall advise the Committee as to whether such claim is covered by Errors and Omissions insurance. All pertinent details are to be furnished by the applicant.

II. The Legal Affairs Committee's Response to the Application:

- A. Upon receipt and review of the materials specified in Section I above, the Committee shall inform the applicant as to whether it shall take no action, or shall make further inquiry into the issues presented. If the Committee decides to make further inquiry, it shall so inform the applicant. The applicant agrees that he shall make available his attorney and any other witnesses to appear before the Committee, upon the Committee's request for further discussion and inquiry.
- A. If the Committee concludes that the issues in the case are of sufficient importance to Realtors® in New Jersey, the Committee shall recommend to the Board of Directors of New Jersey Realtors® the extent to which New Jersey Realtors® should assist applicant. The Board of Directors shall thereafter inform the Committee of its decision, and the Committee shall thereupon communicate such action to the applicant.

III. Conditions of the Legal Affairs Committees Participation:

- A. In the event that the applicant accepts the proposal made by the Committee, the applicant shall agree to abide by the following general conditions:
1. The applicant shall promptly communicate all oral or written settlement offers to New Jersey Realtors® and shall give New Jersey Realtors® the opportunity to participate in any and all settlements.
 2. The applicant shall agree, in writing, not to settle the case without the approval of the Board of Directors of New Jersey Realtors®, which approval shall not be withheld unreasonably. In considering the applicant's request to settle the case, the Board of Directors shall consider the importance of the case as it affects New Jersey Realtors® and its membership and whether such settlement will be in degradation of any substantial interest or rights of New Jersey Realtors® and its membership. In the event New Jersey Realtors® shall approve such settlement, New Jersey Realtors® shall have the right to condition its consent upon reimbursement to it by applicant of all monies expended by it in connection with the case.
 3. New Jersey Realtors® reserves the right to cease all further involvement in the case at any time provided only that New Jersey Realtors® notifies the applicant in writing of such decision.
 4. The applicant agrees to have their legal counsel furnish to the Committee copies of all bills for legal services, rendered and to be rendered, by such counsel and in such detail as is reasonably acceptable to the Committee. All bills shall be furnished to the Committee forthwith after being rendered by such counsel.

5. The applicant agrees to fully and unconditionally release New Jersey Realtors®, the Committee, New Jersey Realtors® staff, New Jersey Realtors® counsel, and local board of Realtors® of which the applicant is a member, and its counsel, from any and all liability arising out of the participation or failure to participate in the matter by any of the parties mentioned in this paragraph.
 6. The applicant agrees to make themselves and their counsel available to respond to all reasonable inquires of the Committee.
- B. Other than the general conditions specified above, the specific rights and obligations of the applicant and New Jersey Realtors® shall be expressed in a written agreement between New Jersey Realtors® and the applicant.

IV. The Powers of the Chief Executive Officer in the Event of Emergent Circumstances:

- A. Notwithstanding the above provisions in the event of emergent circumstances which warrant immediate action (without reasonable time to convene or poll the Committee), the Chief Executive Officer of New Jersey Realtors®, with the advise of legal counsel and the consent of New Jersey Realtors® Senior Officer(s) who are available, is hereby authorized (1) to approve payment of New Jersey Realtors® counsel's services, not to exceed \$1,500 in any case; and (2) to determine if the allocation is to be disbursed from the Legal Action Fund or from New Jersey Realtors® General Fund. At the next subsequent meeting of the Committee, the Chief Executive Officer and/or legal counsel shall report all items, which shall have been submitted to counsel for review pursuant to this paragraph.