



4248 Park Glen Road, Minneapolis, MN 55416
(952) 928-4641 (800) 448-3942 fax (952) 929-1318 • www.nahi.org

National Association of Home Inspectors, Inc. (NAHI™) Position Statement on Ethics

INTRODUCTION

The National Association of Home Inspectors, Inc. (NAHI™) has continually striven to provide our members with tools to promote their businesses and services, as well as meeting the equally important goal of promoting and maintaining the integrity of the home inspection industry. As to the latter, the NAHI™ Code of Ethics has played a valuable role. While NAHI™ views a strong code of ethics to be a necessary component for any association of home inspectors, some other home inspector associations have expanded and/or designed their code of ethics to serve, in part, as a tool for limiting competition between members in the marketplace. NAHI™ believes that this approach wrongfully intertwines and confuses an association's goal of promoting the business of its members with its goal of protecting the integrity of the profession. NAHI™ further believes that this is an improper use of a code of ethical conduct.

NAHI™ believes it is our responsibility to ensure the NAHI™ Code of Ethics is not improperly used as a tool to restrict competitive practices, but rather to maintain a clear and singular focus of promoting and maintaining the integrity of the home inspection industry. Obtaining this objective has not been easy, yet NAHI™ believes that its Code of Ethics, which has been developed over the years, meets this goal.

ETHICS IN CONTEXT – THE CURRENT CONTROVERSY

Ethical standards in a professional setting are defined as a set of principles that define right and wrong conduct for members of the profession. One of the primary goals in defining a set of ethical standards is to establish a benchmark for professional conduct that maintains the integrity of a home inspection and allows for consumers to be confident that there are no undisclosed aspects of the inspection that, if known, would create doubt or concern regarding the integrity or impartiality of the inspection.

However, as our industry has grown and competition increases, other associations have expanded their code of ethics to reach beyond what could reasonably be construed as serving as a benchmark for professional conduct. Specifically, these associations have inserted provisions that limit the types of marketing and services that inspectors are allowed to perform. The rationale behind this approach appears to be that if all home inspectors are "ethically" prohibited from engaging in certain types of competitive practices that are otherwise well within broadly accepted principles of free-market competition, none of the inspectors will incur the costs of doing so and none will be at a competitive disadvantage. Accordingly, this approach is not based on a benchmark for professional conduct, but instead is utilized as a means for

imposing restrictions on competition in the marketplace, which, regardless of serious questions regarding its legality, is a perversion of the proper use of a code of ethics.

This competition based approach to a code of ethics utilized by some associations only works to the extent that other home inspectors refrain from engaging in the types of competitive practices that the "ethical restrictions" are intended to preclude. In an attempt to force these competitive restrictions on other home inspectors, some members of these associations have taken to accusing non-complying home inspectors of engaging in unethical conduct. NAHI™ has and will continue to reject any allegation that competition in the marketplace constitutes unethical conduct, and it will continue to support its members in their faithful adherence to a proper code of ethics based on benchmarks for professional conduct rather than limiting competition.

PREFERRED VENDORS

One area that has been the subject of accusations of competitive "unethical conduct" is the use by home inspectors of the marketing tool known as preferred vendor lists. A preferred vendor list marketing arrangement is similar to marketing that is frequently utilized in the food industry, where food suppliers pay food stores a fee for desirable shelf space. Desirable shelf space has value to competitors in the food supply industry because of increased visibility, which creates a demand for this shelf space. Food stores are able to capitalize on this demand by offering the desirable shelf space for a fee. In a preferred vendor list marketing arrangement, a home inspector's ability to market through real estate agencies also has value because of the increased visibility in the marketplace, which creates demand for these services. Some real estate agencies have chosen to capitalize on this demand by offering the use of their offices for home inspector marketing materials in exchange for a fee. The fee paying home inspectors are then deemed to be a "preferred vendor" for the real estate agency and have access to increased marketing opportunities.

The NAHI™ Code of Ethics does not limit or preclude a home inspector's ability to market his or her services, and NAHI™ has been clear that being included on a preferred vendor list does not constitute a violation. Imposing limitations on a home inspector's ability to utilize marketing techniques that otherwise comply with applicable laws, including consumer protection laws, is not a matter of establishing benchmarks for professional conduct. Instead, it is an attempt to govern and limit competition in the marketplace. Moreover, NAHI™ believes that an association that attempts to impose such competitive restrictions on its members, whether through an "ethical" rule or otherwise, is performing a disservice for its members. A home inspector that chooses to pay for the marketing opportunities provided by real estate agencies has made a business decision that the increased business revenues will offset the added business cost. In addition, there is no limitation on home inspectors who are not members of an association from utilizing this marketing opportunity, and these inspectors therefore gain a competitive advantage over inspectors that are "ethically" precluded from this practice.

It is not the place of NAHI™ or any other association to attempt to preempt a home inspector's business decisions as how to best grow an inspection business. NAHI™ also believes that an association that agrees to restrict free competition in the marketplace among members is venturing onto perilous legal grounds. Regardless of the legality of these actions, however, a code of ethics should not be used as a mechanism for hindering innovative marketing strategies that increase revenue streams. The emphasis should instead be on growth in an atmosphere of

competitive markets, and ethics is not a proper medium for the purpose of limiting how an inspector markets his or her business.

PROVIDING REPAIRS OR REFERRING ANCILLARY SERVICES

Another issue that has been the subject of debate among some inspectors has been whether a home inspector should be precluded by a code of ethics from offering to perform repairs or to refer ancillary services. It is the position of NAHI™ that the ability of home inspectors to perform these services with proper disclosure should not be limited through an ethical prohibition. Instead, NAHI™ believes that whether or not a home inspector chooses to diversify his or her business and generate additional revenue streams is a business decision. It should not be limited based on an ethical rule, which is based on a presumption that the home inspector will not abide by ethical rules that require an unbiased, impartial inspection. It is improper and misguided to presume that he/she will act to deceive the customer into purchasing goods or services the customer does not need.

In making this business decision, some home inspectors may decide that it is in their best interest not to provide these services and to make it part of their marketing strategy to advertise that these services are not offered by the home inspector. Other inspectors may decide that it is in their best interests to offer these services. Regardless of the decision reached by the individual home inspector, it is a decision based on how to best compete in a competitive marketplace. Since it is a decision based on competition, and as long as there is full disclosure, NAHI™ does not believe that precluding an inspector's ability to make this business decision is a necessary or appropriate component of a code of ethics.

To ensure there is no misunderstanding and to help make certain the customer makes an informed decision, the NAHI™ Code of Ethics does require that, if these products or services or recommendations are offered, there must be full disclosure to the consumer of the inspector's interest in the proposed transaction. Specifically, Section 6 of the NAHI™ Code of Ethics provides as follows:

The Inspector may recommend or offer products or additional services to the client consistent with the provisions of this Code of Ethics. If the services or products recommended or offered by the Inspector are:

- (a) to be purchased from or provided by the Inspector, their agents or employees;*
- (b) to be purchased from or provided by any entity, organization, or venture in which the Inspector has an interest; or*
- (c) will result in any compensation or benefit to the Inspector, financial or otherwise,*

then the products or services may only be recommended or offered after a written disclosure to the client of the Inspector's interest in the transaction and advising the client to obtain competitive bids.

Accordingly, while the Code of Ethics permits an inspector to recommend or offer products or services, there must be full disclosure to the customer if the inspector stands to directly or

indirectly benefit from the transaction, regardless of whether the benefit is financial or in some other form. With this required written disclosure, the customer is provided with the information necessary to make an informed choice as to whether to follow an inspector's recommendation or purchase additional products or services.

It is important to emphasize that this rule allows for and promotes consumer choice. In situations where a home inspector is "ethically" prohibited from providing these services, a customer is deprived of this choice even in cases where the customer is fully informed that the home inspector will benefit from the transaction and nonetheless desires to purchase goods or services or receive recommendations from the inspector.

Some have asserted that allowing inspectors to make recommendations or perform services creates a conflict with the stated goal of providing an impartial, unbiased home inspection. This assertion is mistaken for two reasons. First, Section 6 of the NAHI™ Code of Ethics specifically provides that any recommendation or provision of goods and services must be made "consistent with the provisions of this Code of Ethics." Section 2 of the Code of Ethics requires that the "Inspector will act as an unbiased third party" and "will discharge the Inspector's duties with integrity and fidelity to the client." An inspector is therefore required under the Code of Ethics to provide an unbiased inspection that is performed in the best interests of the client, regardless of whether the inspector also offers recommendations or additional products or services. An inspector who wrongfully disregards this ethical obligation will most likely have no inhibition against violating a rule prohibiting the provision of additional products or services. Second, as long as there is full disclosure, there is no conflict of interest. Instead, full disclosure allows the customer to make an informed decision without limiting consumer choices. Notably, this disclosure requirement is also similar to what is required under the ethical standards adopted by the National Association of Realtors®.

For these reasons, it is the position of NAHI™ that, as long as there is full disclosure, whether an inspector decides to offer additional products or services is a business decision that is properly driven by the mandates of a competitive marketplace. As such, NAHI™ believes that, other than requiring full disclosure, this business decision should not be precluded or unnecessarily limited through a code of ethics.

CONCLUSION

The promulgation of an appropriate code of ethics is a critical component to meet the goal of NAHI™ in promoting and maintaining the integrity of the home inspection industry. A code of ethics, however, is not an appropriate vehicle to limit competition in the marketplace or to preclude individual home inspectors from making business decisions that are critical to the success and prosperity of the inspector's business. While a free and competitive marketplace may impose additional costs on some home inspectors who are forced to meet competitive pressures, it ultimately benefits both consumers and inspectors by providing inspectors with additional opportunities and supports consumer access to a better product at a competitive price. In fact, the economy of our nation is built on such a free and competitive marketplace. Accordingly, NAHI™ has acted with due deliberation to promulgate a code of ethics that meets the goal of maintaining the integrity of the home inspection industry without attempting to circumvent an inspector's ability to compete in the marketplace.

Approved--March 1, 2006