

Working With A REALTOR

The Agency Relationship

In real estate, there are different possible forms of agency relationship:

1. Seller representation

- When a real estate brokerage represents a seller, it must do what is best for the seller of a property.
- A written contract, called a listing agreement, creates an agency relationship between the seller and the brokerage and establishes seller representation. It also explains services the brokerage will provide, establishes a fee arrangement for the REALTOR's services and specifies what obligations a seller may have.
- A seller's agent must tell the seller anything known about a buyer. For instance, if a seller's agent knows a buyer is willing to offer more for a property, that information must be shared with the seller.
- Confidences a seller shares with a seller's agent must be kept confidential from potential buyers and others.
- Although confidential information about the seller cannot be discussed, a buyer working with a seller's agent can expect fair and honest service from the seller's agent and disclosure of pertinent information about the property.

2. Buyer representation

- A real estate brokerage representing a buyer must do what is best for the buyer.
- A written contract, called a buyer representation agreement, creates an agency relationship between the buyer and the brokerage, and establishes buyer representation. It also explains services the brokerage will provide, establishes a fee arrangement for the REALTOR's services and specifies what obligations a buyer may have.
- Typically, buyers will be obliged to work exclusively with that brokerage for a period of time.
- Confidences a buyer shares with the buyer's agent must be kept confidential.
- Although confidential information about the buyer cannot be disclosed, a seller working with a buyer's agent can expect to be treated fairly and honestly.

3. Dual representation

- Occasionally a real estate brokerage will represent both the buyer and the seller. The buyer and seller must consent to this arrangement in writing. Under this dual representation arrangement, the brokerage must do what is best for both the buyer and the seller.
- Since the brokerage's loyalty is divided between the buyer and the seller who have conflicting interests, it is absolutely essential that a dual representation relationship be properly documented. Representation agreements specifically describe the rights and duties of everyone involved and any limitations to those rights and duties.

4. Customer service

- A real estate brokerage may provide services to buyers and sellers without creating buyer or seller representation. This is called "customer service."
- Under this arrangement, the brokerage can provide many valuable services in a fair and honest manner. This relationship can be set out in a buyer or seller customer service agreement.
- Real estate negotiations are often complex and a brokerage may be providing representation and/or customer service to more than one seller or buyer. The brokerage will disclose these relationships to each buyer and seller.

Who's working for you?

- It is important that you understand who the REALTOR is working for. For example, both the seller and the buyer may have their own agent which means they each have a REALTOR who is representing them.
- Or, some buyers choose to contact the seller's agent directly. Under this arrangement the REALTOR is representing the seller, and must do what is best for the seller, but may provide many valuable customer services to the buyer.
- A REALTOR working with a buyer may even be a "sub-agent" of the seller. Under sub-agency, both the listing brokerage and the co-operating brokerage must do what is best for the seller even though the sub-agent may provide many valuable customer services to the buyer.

- If the brokerage represents both the seller and the buyer, this is dual representation.

Code of Ethics

- REALTORS believe it is important that the people they work with understand their agency relationship. That's why requirements and obligations for representation and customer service are included in a Code of Ethics which is administered by the Real Estate Council of Ontario.
- The Code requires REALTORS to disclose in writing the nature of the services they are providing, and encourages REALTORS to obtain written acknowledgement of that disclosure. The Code also requires REALTORS to submit written representation and customer service agreements to buyers and sellers.

Acknowledgement by

Audrey Turner

(Name)

I/we have read and understand the Working with a REALTOR – The Agency Relationship brochure:

Buyers

As buyer(s), I/we understand that:

(Name of Brokerage)

Is (initial one)

_____ My Agent (Buyer's Agent), to be documented in a separate written agency representation agreement as required by the Real Estate and Business Brokers Act, and I understand the agent also represents sellers and may be required to act as a dual agent.

_____ Not representing my interests, to be documented in a separate written customer service agreement as required by the Act, but will act in a fair, ethical and professional manner.

Signature

Date

Sellers

As seller(s), I/we understand that:

HomeLife/Muskoka Real Estate Ltd (brokerage)

(Name of Brokerage)

Is (initial one)

AJ My Agent (Seller's Agent), to be documented in a separate written agency representation agreement as required by the Real Estate and Business Brokers Act, and I understand the agent also represents buyers and may be required to act as a dual agent.

_____ Not representing my interests, to be documented in a separate written customer service agreement as required by the Act, but will act in a fair, ethical and professional manner.

Signature

Date

Audrey Turner 09/10/2009

This form is for information only and is not a contract.



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DUAL AGENCY CONSENT AND CONFIRMATION AGREEMENT
(In the event the purchaser views and wants to purchase a property represented by the same company)

For the property located at: 1049-2 Put-In-Bay Lane, Peninsula Lake

1. Vendor and Purchaser acknowledge and agree that the real estate firm and the listing and selling agents (collectively called the "Agents") may undertake a Consensual Dual Agency representation in the sale of a certain property. Vendor and Purchaser have previously been informed of the possibility of a Dual Agency arising if a Purchaser client becomes interested in a Vendor client's property. Vendor and Purchaser have consented to this dual representation and hereby confirm their consent by initialing below after reading the following description of the type of representation to be provided.

2. Description of Agents Role

Because the Agent is acting for both Vendor and Purchaser in this transaction, the Agent shall make every reasonable effort to remain impartial to the Vendor and Purchaser. Vendor and Purchaser acknowledge that prior to the creation of the Dual Agency, the agent acted as the exclusive agent of the Vendor and acted as exclusive agent of the Purchaser. In those separate roles, the Agent may have obtained information which, in the sole discretion of the Agent, would harm one party's bargaining position and would benefit the other party. However, this Agreement shall not prevent the Agent from disclosing to the Purchaser any known material defects in the property or any other matter that must be disclosed by law and/or regulation. The Agent agrees not to disclose (a) to the Purchaser information about what price the Vendor will accept other than the listing price, or (b) to the Vendor information about what price the Purchaser will pay other than any written offered price. In the event that the Vendor and the Purchaser do not enter into an agreement for the purchase of the Vendor's property by the Purchaser (the "Agreement of Purchaser and Sale"), or in the event that the Agreement of Purchase and Sale between the Vendor and the Purchaser does not close by the closing date set forth in the Agreement of Purchase and Sale, the Agent may terminate its Dual Agency role and this Agreement by mailing a written termination notice to the Vendor and the Purchaser.

3. Description of the Vendor's and Purchaser's Role

Because of the Agent's Dual Agency relationship, the Vendor and the Purchaser understand that they have the responsibility of making their own decisions as to what terms are to be included in any Agreement of Purchase and Sale between them. The Vendor and the Purchaser also acknowledge that they are aware of the implications of the Agent's Dual Agency role including the limitation on the Agents ability to represent the Vendor or the Purchaser exclusively. The Vendor and the Purchaser have determined that the benefits of entering into a transaction between them with the Agent acting as agent for both of them outweigh such implications. The Vendor and the Purchaser understand that they may each seek independent legal counsel in order to assist with any matter relating to an Agreement of Purchase and Sale or to the transaction which is the subject matter of an Agreement of Purchase and Sale. The Vendor and the Purchaser agree that the Agent shall not be liable for any claims, damages, losses or expenses or liabilities arising from the Agent's role as Dual Agent. The Vendor and the Purchaser shall have a duty to protect their own interests and should read this Agreement and any Agreement of Purchase and Sale carefully to insure that they accurately set forth the terms which they want included in said agreements.

WHAT THE AGENT MAY DO FOR THE VENDOR AND PURCHASER WHEN ACTING AS A DUAL AGENT:

- Agent will treat the Vendor and Purchaser honestly.
- Agent may provide helpful information about the property and neighbourhood to the Purchaser.
- Agent will respond to questions about the condition of the property.
- Agent must disclose all material facts about the property that are known to the Agent, as required by law and/or regulation.
- Agent will disclose financial qualifications of the Purchaser and the Vendor.
- Agent may help the Purchaser to arrange for property inspections.
- Agent may explain closing costs and procedures.
- Agent may help the Purchaser compare financing alternatives.
- Agent may provide information about comparable properties so that the Vendor and the Purchaser may make an educated decision on what price to accept or to offer.
- Agent will assist with the preparation of the Agreement of Purchase and Sale.
- Agent will work diligently to facilitate the sale and Agent will work with the Vendor's and Purchaser's lawyers, tax accountants, inspectors and other advisors in order to expedite the closing.

WHAT THE AGENT MAY NOT DISCLOSE TO THE VENDOR AND PURCHASER WHEN ACTING AS A DUAL AGENT:

- Agent may not disclose confidential information that the Agent may know about the Vendor and/or Purchaser (some examples: motivation to sell or buy; price, terms and/or conditions of sale which are acceptable; negotiating strategy), without written permission of the Vendor and/or Purchaser.
- Agent may not disclose the price the Vendor will accept other than the listing price without written permission of the Vendor.
- Agent may not disclose the price the Purchaser is willing to pay without written permission of the Purchaser.
- Agent may not recommend a price which the Purchaser should offer or pay for the property.
- Agent may not recommend terms and/or conditions of sale which the Purchaser should offer for the property.
- Agent may not recommend a price which the Vendor should accept or which should form the basis of a counter offer.

Audrey Turner 09/10/2009
(Vendor) Audrey Turner Date (Purchaser) Date

(Vendor) Date (Purchaser) Date

Ken Maatens Sept 10/09
(Witness) Date (Witness) Date