or their agents during the agency relationship without your permission. But until you make this agreement with your buyer agent, you should avoid telling the agent anything you would not want a seller to know.

Q: Must a buyer have a written agency agreement with the agent who represents the buyer?
A: To make sure that you and the real estate firm have a clear understanding of what your relationship will be and what the firm will do for you, you may want to have a written agreement when you first begin working with an agent. However, some firms may be willing to represent and assist you initially as a buyer agent without a written agreement. But if you decide to make an offer to purchase a particular property, the agent must enter into a written agency agreement with you before making a written or oral offer for you. If you do not sign the agency agreement, then the agent can no longer represent and assist you and is no longer required to keep information about you confidential.

Q: What services might a buyer agent provide?
A: Whether you have a written or unwritten agreement, a buyer agent will perform a number of services for you. These may include helping you • find a suitable property • arrange financing • learn more about the property and • otherwise promote your best interests. If you have a written agency agreement, the agent can also help you prepare and submit a written offer to the seller.

Q: How is a buyer agent compensated?
A: A buyer agent can be compensated in different ways. For example, you can pay the agent out of your own pocket. Or the agent may seek compensation from the seller or listing firm first, but require you to pay if the listing firm refuses. Whatever the case, be sure your compensation arrangement with your buyer agent is clearly indicated in a buyer agency agreement before you make an offer to purchase property and that you carefully read and understand the compensation provision.

Q: What happens if I want to buy a property listed by the same agent or firm that represents me?
A: You may permit an agent or firm to represent you **and** the seller at the same time. This would mean that the real estate firm and all of its agents would represent you and the seller equally. This "dual agency relationship" will happen if you become interested in buying a property listed with your agent's firm. If you have not already agreed to a dual agency relationship in your (written or oral) buyer agency agreement and this is acceptable to you, then your buyer agent will ask you to amend the buyer agency agreement or sign a separate agreement or document permitting his or her firm to act as agent for both you and the seller. Any agreement between you and an agent that permits dual agency must be put in writing no later than the time you make an offer to purchase. Both the seller, and you, as buyer, must consent in writing to dual agency.

Q: What is the risk if I agree to dual agency?
A: Dual agency creates a potential conflict of interest for the firm that represents you since its loyalty is divided between you and the seller. It is especially important that you have a clear understanding of what your relationship is with the firm and all of its individual agents, since all of them are dual agents. This can best be accomplished by putting the agreement in writing at the earliest possible time and asking any questions that you may have. A dual agent must treat buyers and sellers fairly and equally and cannot help one party gain an advantage over the other party. Although each dual agent owes both their clients the same duties, buyers and sellers can prohibit dual agents from divulging certain confidential information about them to the other party.

Q: How can I reduce the risk if dual agency occurs?
A: To minimize conflicts of interest, some firms also offer a form of dual agency called "designated dual agency" where one agent in the firm represents only the seller and another agent represents only the buyer. The firm and the firm's other agents remain in dual agency. This option (when offered by a firm) may allow each "designated agent" to more fully represent each party. Under designated dual agency, each agent designated to represent the buyer is prohibited from disclosing (1) that the buyer may agree to any price or terms other than those established by the buyer, (2) the buyer's motivation for buying, or and (3) any information the buyer has identified as confidential, unless otherwise required by statute or rule.

Q: What happens if the buyer agency agreement expires?
A: If the buyer agency agreement expires after you entered into a contract to purchase a property, then your agent may continue to represent you through the date of the closing and you may be responsible for compensating the firm in accordance with the provisions of the buyer agency agreement. If you are not under contract to buy a property when your buyer agency agreement expires, then your agent must immediately stop representing you unless you first enter into a new buyer agency agreement with the agent.

Q: Can I buy real estate without hiring a real estate agent?
A: Yes. If the real estate agent or firm that you contact does not offer buyer agency or you do not want them to act as your buyer agent, you can still work with the firm and its agents. However, they will be acting as the seller's agent (or "subagent"). The agent can still help you find and purchase property and provide many of the same services as a buyer's agent. The agent must be fair with you and report any "material facts" (defects such as a leaky roof) about properties. But remember, the agent represents the seller—not you—and therefore must try to obtain for the seller the best possible price and terms for the seller's property and cannot give you advice on buying the property if it will conflict with the seller's interests. Furthermore, a seller's agent is required to give the seller any information about you (even personal, financial or confidential information) that would help the seller in the sale of his or her property. Agents must tell you in writing if they are sellers' agents before they ask you about anything that can help the seller. But until you are sure that an agent represents you and is not a seller's agent, you should avoid saying anything you do not want a seller to know.

Q: If I am an unrepresented buyer, who pays the real estate agent?
A: Unless you agree otherwise, seller's agents are compensated by the sellers.

Q: Can the real estate agent who represents the seller require me to hire an agent to represent me?
A: No. While it may benefit you to hire an agent, there is no law requiring a buyer to hire a real estate agent to buy real estate.

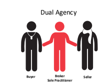
Termination of Agency Agreements

Q: If I hire a real estate agent or firm to represent me, can I terminate the agency agreement before it expires?
A: Maybe. An agency agreement is a contract between a buyer or seller and a real estate firm. Most agency agreements do not contain a provision allowing a buyer or seller to terminate the agreement before it expires without the consent of the other party. Generally, one party cannot terminate the agreement without the consent of the other party. If you and the firm both agree to terminate the agreement, then you both should sign a written agency termination agreement. If the agent asks for compensation in exchange for terminating the agreement, then you can agree or disagree or try to negotiate the amount of compensation. If an agency agreement contains a penalty or fee for early termination, the provision specifying the penalty or fee must be set forth in a clear and conspicuous manner. If you are not able to reach an agreement on the termination of the agency agreement, then you may consult your own attorney or simply wait until the agency agreement expires. The Real Estate Commission does not have the authority to terminate agency agreements or to force a real estate agent to terminate an agreement.

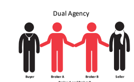
(Note: This brochure is for informational purposes only and does not constitute a contract for service.)

Buyer Agency and Seller Agency

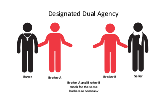
Dual Agency



Dual Agency



Designated Dual Agency



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Questions and Answers on: WORKING WITH REAL ESTATE AGENTS

A publication of the North Carolina Real Estate Commission

Questions and Answers on: WORKING WITH REAL ESTATE AGENTS

When buying or selling real estate, you may find it helpful to have a real estate agent assist you. Real estate agents can provide many useful services and work with you in different ways. In some real estate transactions, the agents work only for the seller. In other transactions, the seller and buyer may each have their own agents. And sometimes the same agent or firm works for both the buyer and the seller in the same transaction. It is important for you to know whether an agent is representing you as your agent or simply assisting you while acting as an agent of the other party.

Do not share any confidential information with a real estate agent or assume that the agent is acting on your behalf until you have entered into a written agreement with the agent to represent you. Otherwise, the agent can share your confidential information with others and this could hurt your ability to negotiate the best deal.

To assist buyers and sellers in understanding the roles of real estate agents, the Real Estate Commission requires agents in sales transactions to (1) review a "Working With Real Estate Agents Disclosure" with you at first substantial contact - before asking for or receiving your confidential information and (2) give you a copy of the Disclosure form after you sign it. The Disclosure form is for your education and protection and is not a contract.

This Q&A brochure assumes that you are a prospective buyer or seller and answers common questions about the various types of agency relationships that may be available to you. It should help you:

- decide which relationship you want to have with a real estate agent
- give you useful information about the various services real estate agents can provide buyers and sellers
- explain how real estate agents are paid

IMPORTANT NOTE ABOUT RACIAL EQUALITY AND FAIR HOUSING: The Commission is committed to the principles of excellence, fairness, and respect for all people. It is our goal to ensure that brokerage activities are conducted in fairness to all and to end discrimination in the sale or rental of all real estate.

In residential sales and rental transactions, agents must comply with the Fair Housing Act which prohibits discrimination on the basis of the race, color, religion, sex, national origin, handicap, or familial status of any party or prospective party. For more information on the NC Fair Housing Act, you may visit https://www.oah.nc.gov/civil-rights-division/housing-discrimination.

Q: What does the word, "agency," mean?
A: The relationship between a real estate agent and the buyer or seller who hires the agent is referred to as an agency relationship, because the real estate agent acts on behalf of (i.e. as an agent for) the buyer or seller (the "client"). In an agency relationship, the agent has certain duties and responsibilities to their client.

Q: What is an agency agreement?
A: An agency agreement is a contract between you and a real estate firm that authorizes the firm and its agents to represent you. The agency agreement between buyers and agents is typically called a "Buyer Agency Agreement"; between sellers and agents, a "Listing Agreement." Be sure to read and understand the agency agreement before you sign it. If you do not understand it, ask the agent to explain it. If you still do not understand, you may want to consult an attorney before signing the agreement. Your agent must give you a copy of the agreement after you sign it.

Q: Is there a "standard" length of time for agency agreements?
A: No. The term or length of an agency agreement is negotiable. Real estate agents are allowed to determine their own policies for the lengths of their agency agreements. However, a prospective buyer or seller may request a different length of time than proposed by an agent. If an agreement cannot be reached with the agent, the buyer or seller may seek another real estate agent willing to agree to a different length of time. Every agency agreement must have a definite expiration date.

Q: Is there a "standard" fee for real estate agents?
A: No. The amount or percentage of an agent's compensation is negotiable. Real estate firms are allowed to determine their own compensation policies. However, a prospective buyer or seller may request a different fee. If an agreement cannot be reached with the agent, the buyer or seller may seek another real estate agent willing to agree to a different fee.

Q&As for SELLERS

Q: I want to sell my property. What do I need to know about working with real estate agents?
A: If you own real estate and want to sell it, you may want to "list" your property for sale with a real estate firm. If so, you will sign a written "listing agreement" authorizing the firm and its agents to represent you as your "listing" agent in your dealings with buyers. The real estate firm must enter into a written listing agreement with you before it is allowed to begin marketing or showing your property to prospective buyers or taking any other steps to help you sell your property. The listing firm may ask you to allow agents from other firms to show your property to their buyer-clients.

Q: What are a listing agent's duties to a seller?
A: The listing firm and its agents must • promote your best interests • be loyal to you • follow your lawful instructions • provide you with all material facts that could influence your decisions • use reasonable skill, care and diligence, and • account for all monies they handle for you. Once you have signed the listing agreement, the firm and its agents may not give any confidential information about you to prospective buyers or their agents during the agency relationship without your permission. But until you sign the listing agreement, you should avoid telling the listing agent anything you would not want a buyer to know.

Q: What services might a listing agent provide?
A: To help you sell your property, a listing firm and its agents will offer to perform a number of services for you. These may include • helping you price your property • advertising and marketing your property • giving you all required property disclosure forms for you to complete • negotiating for you the best possible price and terms • reviewing all written offers with you and • otherwise promoting your interests.

Q: How is the listing firm compensated?
A: For representing you and helping you sell your property, you will pay the listing firm a sales commission or fee. The listing agreement must state the amount or method for determining the sales commission or fee and whether you will allow the firm to share its sales commission with agents representing the buyer.

Q: If I list my property with a real estate firm that also represents a buyer who wants to buy my property, what happens then?
A: You may permit the listing firm **and** its agents to represent you and a buyer at the same time. This would mean that the real estate firm and all of its agents would represent you and the buyer equally. This "dual agency relationship" will happen if an agent with your listing firm is working as a buyer's agent with someone who wants to purchase your property. If you have not already agreed to a dual agency relationship in your listing agreement and this is acceptable to you, your listing agent will ask you to amend your listing agreement to permit the firm to act as agent for both you and the buyer. Any agreement between you and a firm that permits dual agency must be put in writing no later than the time the buyer makes an offer to purchase. Both you, as seller, and the buyer must consent in writing to dual agency.

Q: What is the risk if I agree to dual agency?
A: Dual agency creates a potential conflict of interest for the firm that represents you, since its loyalty is divided between you and the buyer. It is especially important that you have a clear understanding of what your relationship is with the firm and with the firm's individual agents, since all of them are dual agents. A dual agent must treat buyers and sellers fairly and equally and cannot help one party gain an advantage over the other party. Although each dual agent owes both their buyer and seller client the same duties, buyers and sellers can prohibit dual agents from divulging certain confidential information about them to the other party.

Q: How can I reduce the risk if dual agency occurs?
A: To minimize conflicts of interest, some firms also offer a form of dual agency called "designated dual agency" where one agent in the firm represents only the seller and another agent represents only the buyer. The firm and the firm's other agents remain in dual agency. This option (when offered by a firm) may allow each "designated agent" to more fully represent each party. Under designated dual agency, each agent designated to represent the seller is prohibited from disclosing (1) that the seller may agree to any price or terms other than those established by the seller, (2) the seller's motivation for selling, or and (3) any information the seller has identified as confidential, unless otherwise required by statute or rule.

Q: Can I sell my property without hiring a real estate agent?
A: Yes. In that case, you would be an unrepresented seller often referred to as For Sale By Owner or "FSBO." If you are selling your property without hiring an agent, then any agent involved in your transaction would be representing only the buyer. Do not share any confidential information with the buyer's agent. If the agent for the buyer asks you for compensation and you are willing to pay that agent, then you should enter into a written agreement that clearly expresses the terms and conditions of your obligation to pay the agent.

Q: What happens if the listing agreement expires?
A: If the listing agreement expires after you enter into a contract to sell your property, then the listing agent and firm may continue representing you through the date of the closing and you may be responsible for compensating the listing firm in accordance with the provisions of the listing agreement. If the listing agreement expires without your property going under contract, then the listing agent/firm must immediately stop marketing your property unless you first enter into a new listing agreement with the firm.

Q&As for BUYERS

Q: I want to buy real estate. What do I need to know about working with real estate agents?
A: When buying real estate, you may have several choices as to how you want a real estate firm and its agents to work with you. For example, you may want them to represent only you (as a buyer agent). You may be willing for them to represent both you and the seller at the same time (as a dual agent). Or you may agree to let them represent only the seller (seller's agent or subagent). Some agents will offer you a choice of these services. Others may not.

Q: What are a buyer agent's duties to a buyer?
A: If the real estate firm and its agents represent you, they must • promote your best interests • be loyal to you • follow your lawful instructions • provide you with all material facts that could influence your decisions • use reasonable skill, care and diligence, and • account for all monies they handle for you. Once you have agreed (either orally or in writing) for the firm and its agents to be your buyer agent, they may not give any confidential information about you to sellers

Continued