

Who does the Real Estate Agent Represent?

"Many people don't realize that, unless specifically stated otherwise, brokers are legal representatives of sellers. A buyer broker, representing only the buyer, may be able to secure a better price and better terms." Good Housekeeping

SELLER'S AGENT or LISTING AGENT

This is the agent whose name is on the sign. Legally obligated to represent the seller's interests. Duty is to get the highest price and best terms for the seller, maintain seller's confidentiality and disclose all known information about prospective buyers. Agent owes the seller undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, provided, however, that the agent must disclose know material defects in real estate. The Seller is "client", buyers are "customers".

BUYER AGENT

This is the agent retained by the buyer to represent the buyer's interests. Requires an agreement of the parties for agent to represent the buyer - not all agents who show homes to buyers represent them! Duty is to locate the right home for the buyer, and negotiate on buyers' behalf for best price and terms, maintain buyer's confidentiality and disclose all known information about the seller AND THE HOME to the buyer. Agent owes the seller undivided loyalty, reasonable care, disclosure, obedience to lawful instruction, confidentiality and accountability, provided, however, that the agent must disclose know material defects in real estate.

The Buyer is "client", sellers are "customers".

(Non-Agent) FACILITATOR

When a real estate agent works as a facilitator that agent assists the seller and buyer in reaching an agreement but does not represent either the seller or buyer in the transaction. The facilitator and the broker with whom the facilitator is affiliated owe the seller and buyer a duty to present each property honestly and accurately by disclosing know material defects about the property and owe a duty to account for funds. Unless otherwise agreed, the facilitator has no duty to keep information received from a seller or buyer confidential.

DUAL AGENT and DESIGNATED AGENT

Dual agency occurs when a real estate agent is representing both buyer and seller in the same transaction. Since the agent has promised a duty of confidentiality, loyalty and full disclosure to both parties simultaneously, it is necessary to limit these duties in this situation, if both parties consent. Also, whenever the agents for the seller and the buyer work for the same real estate company, or "broker", they BOTH become DUAL AGENTS. Neither buyer nor seller is fully represented.

Designated agency is a form of dual agency. It is a term given to a situation when a real estate firm has an in-house dual agency, where an individual agent in a firm is appointed (or "designated") to represent only the interests of the seller and another agent is appointed to represent only the interests of the buyer.