



AGENCY DISCLOSURE - #205

Taking the Guesswork out of Agency Relationships

Developed & Provided by your Association of Saskatchewan REALTORS®

REALTORS® work within a framework of legal principles called agency. REALTORS® believe that it is important that the buying and selling public understand how an agency relationship works and when it exists. This document defines agency and explains the agency duties you can expect from a REALTOR®. It serves as a prelude to any agency agreement you will enter into with a REALTOR®. It will explain the agency relationship in more detail for the purpose of REALTOR® services.

INFORMATION ONLY



WHAT IS AGENCY?

At law, agency is a specific relationship between two or more people. One person must authorize the other person to act on his/her behalf, and the other person must consent to do so. In other words, when you authorize a REALTOR® to work for you in buying or selling a property and the REALTOR® agrees, you and the REALTOR® are in an agency relationship. As a member of the public, you are probably familiar with working with individual REALTORS®. However, the agency relationship is actually between you and the REALTOR'S® brokerage. The brokerage is the real estate company, its branch offices and all of its salespeople. Therefore, when you hire your REALTOR®, the law of agency says that you hire the entire brokerage.

In case of a rental or lease transaction, the term Buyer shall include Tenant and the term Seller shall include Landlord.

In Saskatchewan, REALTORS® practice three different forms of agency: ■ Seller's Agency ■ Buyer's Agency ■ Limited Dual Agency



SELLER'S AGENCY

In Seller's Agency, a real estate company represents only the interests of the seller. Sellers typically hire a real estate company to sell their property by signing a "listing" agreement (now called the Seller's MLS® Brokerage Contract). This is the Contract that establishes the formal agency relationship between the seller and the real estate brokerage. The Exclusive Seller's Brokerage Contract will explain exactly what the seller instructs the Seller's Brokerage to do, what services the Seller's Brokerage will provide to the seller, who will pay for those services and what obligations the seller will have.

A Seller's Brokerage is expected to:	
<ul style="list-style-type: none"> obey the seller's instructions on the Exclusive Seller's Brokerage Contract and all <u>lawful</u> instructions of the seller; represent the seller's best interests; fully disclose known facts which might influence the seller's decisions; 	<ul style="list-style-type: none"> maintain the confidentiality of personal and financial information discussed with the seller even after the Exclusive Seller's Brokerage Contract expires; safeguard the seller's documents and money; and exercise reasonable care and diligence.



BUYER'S AGENCY

In Buyer's Agency, a real estate company (brokerage) represents only the interests of the Buyer. Buyer's Agency can be established by working with a REALTOR® or by a written contract between the buyer and the brokerage called an Exclusive Buyer's Brokerage Contract. The Exclusive Buyer's Brokerage Contract will explain exactly what the buyer instructs the Buyer's Brokerage to do, what services the Buyer's Brokerage will provide to the buyer, who will pay for those services and what obligations the buyer will have.

In Buyer's Agency, the REALTOR® is expected to:	
<ul style="list-style-type: none"> obey the buyer's instructions on the Exclusive Buyer's Brokerage Contract and all <u>lawful</u> instructions of the buyer; represent the buyer's best interests; fully disclose known facts which might influence the buyer's decision; 	<ul style="list-style-type: none"> maintain the confidentiality of personal and financial information discussed with the buyer even after the Exclusive Buyer's Brokerage Contract expires; safeguard the buyer's documents and money; and exercise reasonable care and diligence.



LIMITED DUAL AGENCY

Dual agency occurs on the sale of a property when the same REALTOR® or when different REALTORS® employed by the same real estate company (brokerage) work for both the buyer and the seller. When dual agency occurs, the brokerage's duties of confidentiality and loyalty to the seller conflict with the same duties to the buyer. Therefore, the Association of Saskatchewan REALTORS® has proposed certain rules and limitations to deal with dual agency situations which are:

- That the REALTOR® will **not** disclose that the buyer will pay a price or agree to terms other than those contained in the offer, or that the seller will accept a price or terms other than those contained in the Exclusive Seller's Brokerage Contract.
- That the REALTOR® will **not** disclose the motivation of the buyer to buy or the seller to sell unless authorized by the buyer or seller.
- That the REALTOR® will **not** represent the interest of either the buyer or the seller to the advantage of one over the other.
- That the REALTOR® will **not** disclose personal or financial information of either the buyer or the seller unless authorized in writing.
- That the REALTOR® shall disclose to the buyer all material defects about the physical condition of the property known to the REALTOR®.
- That all "comparable" property information may be disclosed to both the buyer and seller at any time.

The brokerage shall disclose the dual agency to the buyer immediately before preparing an offer (Contract of Purchase and Sale) on the property for signing by the buyer. The brokerage shall disclose the dual agency to the seller immediately before presenting that offer (Contract of Purchase and Sale) to the seller for acceptance. The brokerage shall not be obligated to disclose the dual agency before the times described above.



WHEN THERE IS NO AGENCY RELATIONSHIP

A real estate brokerage may provide services to buyers and sellers without creating buyer or seller agency. 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 agency and/or customer service to more than one seller or buyer. The brokerage will disclose these relationships to each buyer and seller.

Initials



QUESTIONS & ANSWERS

1. Can I still list on the MLS® System?

Yes! Most properties are sold through an information exchange system developed by REALTORS® called the Multiple Listing Service System or MLS® System. In Saskatchewan MLS® Systems deem all REALTORS® who are not in an Exclusive Seller's Brokerage Contract with the seller to be in a Buyer Agency relationship with the buyer and acting as that buyer's REALTOR®. The seller can expect from a buyer's REALTOR® an honest representation of a buyer's offer to purchase.

2. Am I in an agency relationship when I look through a public Open House?

You are not in a Buyer Agency relationship or Limited Dual Agency until you and the REALTOR® establish a working relationship.

3. If the seller's REALTOR® is working for the seller, can I trust what he/she tells me about the property?

The seller's REALTOR® is bound by provincial legislation to treat all parties to a transaction honestly and fairly. A buyer can expect competent service, knowing the seller's REALTOR® is bound by ethics and law to be honest and thorough in representing the property for sale. A buyer can also expect from a seller's REALTOR® disclosure of pertinent information about a property, assurance that nothing about the property will be misrepresented and honest answers to all questions about the property.



HONESTY AND INTEGRITY

The term REALTOR® refers to real estate professionals in Canada who are members of The Canadian Real Estate Association (CREA) and who subscribe to a high standard of professional service and to a strict Code of Ethics. As well, most real estate professionals in our province are members of the Association of Saskatchewan REALTORS® (ASR) and through this membership are members of CREA. In Saskatchewan, only members of ASR can call themselves REALTORS®. When you deal with a REALTOR®, you can expect not only strict adherence to provincial laws, but also adherence to a Code of Ethics. That Code is very important to you, because it assures that you will receive a high standard of professional service, honesty and integrity. One of the ethical obligations embodied in the Code requires that REALTORS® disclose who they are representing in a real estate transaction:

ARTICLE 2

A REALTOR® shall fully disclose in writing to, and is advised to seek written acknowledgement from, his or her Clients and those Customers who are not represented by other Registrants regarding the role and nature of the service the REALTOR® will be providing. This disclosure shall be made at the earliest possible opportunity and in any event prior to the REALTOR® providing professional services which go beyond providing information as a result of incidental contact by a consumer.

If you have any questions about the contents of this form, contact your local real estate board/association or talk to the REALTOR® with whom you are dealing.



PROFESSIONAL SERVICES

Through your agency relationship with a REALTOR®, you can expect service that is loyal to your interests, obedient to your instructions, confidential, accountable, honest and forthcoming when dealing with you and others. REALTORS® can provide you with a variety of valuable market information and assistance in the decision-making process of buying or selling real estate including, but not limited to, the following. Use a REALTOR® when you need a professional to:

Explain

- | | |
|---|---|
| <ul style="list-style-type: none"> real estate terms and practices the correct usage of contracts | <ul style="list-style-type: none"> lenders and their policies costs involved in a real estate transaction |
|---|---|

Help

- | | |
|---|--|
| <ul style="list-style-type: none"> establish fair market value of your property effectively market your property know your range of affordability obtain information about property for sale and the details on zoning, taxes, utility costs, square footage and comparative values | <ul style="list-style-type: none"> select properties to view view properties prepare contracts of purchase and sale and counter contracts negotiate on your behalf |
|---|--|

I acknowledge having received and read this document and agree to the limitations of Limited Dual Agency set out herein.

From: _____
(Real Estate Company)

Signed at _____ mm _____ dd _____ yyyy _____.

Witness _____

INFORMATION ONLY

Witness _____

Signature _____

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