

WORKING WITH A REAL ESTATE AGENT

AN EXPLANATION OF THE RELATIONSHIP BETWEEN YOU AND A REALTOR AND OF THE COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

YOUR RELATIONSHIP WITH A REALTOR

Buying or selling real estate is probably the most important and potentially rewarding financial transaction you'll make in your life. So it is a good idea to take a moment and consider the kind of relationship you might be entering into with a REALTOR. The more you know, the more satisfied you will be with the results.

REALTORS, Agents and real estate boards need to collect, use and disclose some personal information to help you sell or buy real estate.

THE AGENCY RELATIONSHIP

REALTORS work within a legal relationship called agency. The agency relationship exists between you, the principal, and your Agent, the company under which the individual salesperson who is representing you, is licensed. The essence of the agency relationship is that the Agent has the authority to represent the principal in dealings with others.

Agents and their salespeople are legally obligated to protect and promote the interests of their principals as they would their own. Specifically, the Agent has the following duties:

- 1) **Undivided loyalty.** The Agent must protect the principal's negotiating position at all times, and disclose all known facts which may affect or influence the principal's decision.
- 2) **To obey all lawful instructions** of the principal.
- 3) An obligation to **keep the confidences** of the principal.
- 4) To **exercise reasonable care and skill** in performing all assigned duties.
- 5) To **account for all money and property** placed in an Agent's hands while acting for the principal.

You can expect competent service from your Agent, knowing that the company is bound by ethics and the law to be honest and thorough in representing a property listed for sale. Both buyer and seller can be represented by their own Agents in a single transaction.

DUAL AGENCY

Dual agency occurs when a real estate Agent is representing both the buyer and the 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.

If you find yourself involved in a dual agency relationship, before making or receiving an offer, both you and the other party will be asked to consent, in writing, to this new limited agency relationship.

This relationship involves the following limitations:

- a) The Agent will deal with the buyer and the seller **impartially**;
- b) **The Agent will have a duty of disclosure to both the buyer and the seller except that:**
 - i) the Agent will not disclose that the buyer is willing to pay a price or agree to terms other than those contained in the offer, or that the seller is willing to accept a price or terms other than those contained in the listing;
 - ii) the Agent will not disclose the motivation of the buyer to buy or the seller to sell unless authorized by the buyer or the seller;
 - iii) The Agent will not disclose personal information, not otherwise necessarily disclosed in the transaction documentation, about the Buyer or Seller to the other party unless authorized in writing.
- c) The Agent will disclose to the buyer defects about the physical condition of the property known to the Agent.

WHEN THERE IS NO AGENCY RELATIONSHIP

You may also choose to use the services of a REALTOR without having any kind of agency relationship. This might occur, for example, when you are being shown a property by the seller's Agent.

The REALTOR you choose to work with in this manner has a legal and ethical duty to provide you with accurate, honest answers to your questions and can provide all these services:

- Explain real estate terms and practices
- Provide and explain forms used
- Assist you in screening and viewing properties
- Inform you of lenders and their policies
- Identify and estimate costs involved in a transaction
- Assist you in establishing your range of affordability
- Prepare offers or counter-offers at your direction
- Present all offers promptly

A REALTOR who is not your Agent cannot:

- Recommend or suggest a price
- Inform you of his/her principal's top/bottom line
- Disclose any confidential information about his/her principal unless otherwise authorized.

You should not provide a REALTOR who is not your Agent with any information that you would not provide directly to his or her principal.

YOUR RESPONSIBILITIES AS A BUYER OR A SELLER

As a buyer or a seller, you should:

- Carefully read all documents and understand what you are signing.
- If you need special or expert advice, seek other professionals such as lawyers, notaries, accountants, home inspectors, contractors, engineers and surveyors.

AGENCY ACKNOWLEDGEMENT

Agency acknowledgement clauses such as the following will be used in the Contract of Purchase and Sale:

The seller has an agency relationship with

_____ (Agent) and
 _____ (Salesperson)

The buyer has an agency relationship with

_____ (Agent) and
 _____ (Salesperson)

The buyer and the seller have consented to a limited dual agency relationship with

_____ (Agent)
 _____ (Salesperson)
 and _____ (Salesperson)

having signed a Limited Dual Agency Agreement dated

_____, yf. _____

Members of the public are aware that in most cases properties offered for sale by members of the real estate industry have a commission or fee that the seller has agreed to pay to the Listing Agent.

The Listing Agent traditionally shares this commission/fee with the Cooperating Agent. Commission and fee may vary. COPYRIGHT BCREA

PRIVACY

REALTORS, Agents and real estate boards need to collect, use and disclose some personal information to help you sell or buy real estate. We respect your privacy and want to ensure you understand how and why your information is collected, used and disclosed in a real estate transaction.

How is my personal information collected? Most personal information will be collected directly from you through the contracts and other documents you fill out (e.g., Multiple Listing Contract, Contract of Purchase and Sale, seller's Property Disclosure Statement) and through discussions you have with your REALTOR. Some information may be collected from other sources such as government departments and agencies (e.g., Land Title Offices, BC Assessment), financial institutions and mortgage brokers.

To whom may my personal information be disclosed? Your information may be disclosed to (or may be accessible by) the Boards and their staff and members, other real estate boards and their staff and members, other REALTORS and their clients, government departments and agencies, financial institutions, legal advisors, service providers, the British Columbia Real Estate Association, the Real Estate Council of British Columbia, The Canadian Real Estate Association and members of the public, for the purposes described below.

Not all of your information will be accessible to each of the above-mentioned entities. For example, once the listing term has ended, the general public will not have access to your information unless it is otherwise available through public registries (e.g., BC Assessment, Land Title Offices).

PURPOSES FOR COLLECTING, USING AND DISCLOSING PERSONAL INFORMATION

Why is my personal information collected, used and disclosed? Your information may be collected, used and disclosed for some or all of the following purposes:

- a) To allow members of real estate boards (including REALTORS and appraisers) to appraise your property.
- b) To list your property with the Multiple Listing Service® in order to market your property.
- c) To market your property for sale through any other media (both print and electronic).
- d) To help you locate a suitable property to purchase.
- e) To facilitate the purchase and sale transaction (by cooperating with financial institutions, legal advisors and government departments and agencies).
- f) To allow the Boards and other real estate boards and their members (including REALTORS and appraisers) to compile current and historical statistics on sales and property prices, and to conduct comparative market analyses. Information about your property will be retained in the Multiple Listing Service® for these purposes after your property has sold or your listing has expired (if you are a seller) and after you have purchased your property (if you are a buyer).
- g) To enforce codes of professional conduct and ethics for members of real estate boards (by cooperating with real estate boards, the British Columbia Real Estate Association, the Real Estate Council of British Columbia, The Canadian Real Estate Association and other regulatory bodies).
- h) To comply with legal requirements and to act pursuant to legal authorizations.

The above-mentioned collections, uses and disclosures are a necessary part of your relationship with your REALTOR.

Will my personal information be collected, used and disclosed for any other purposes? Your information may also be collected, used and disclosed for the following additional purposes:

- a) Your REALTOR may communicate with you in future to determine whether you require additional real estate services.
- b) Your REALTOR may communicate with you to provide information about other products or services which may interest you.
- c) Other REALTORS may communicate with you to determine whether you require additional real estate services.

These additional purposes are optional. If you do not want your personal information disclosed or used for these purposes, please contact the Board's privacy officer. Contact information for all real estate boards within BC can be found at the British Columbia Real Estate Association (BCREA) website: www.bcrea.bc.ca or telephone 604.683.7702, or toll free 1.877.361.3626.

DEFINITIONS

The **Agent** is the real estate company under which the individual salesperson is licensed.

REALTOR is often used interchangeably with **licencee, real estate agent or salesperson** and, in BC, is licensed under the *Real Estate Act*. A REALTOR can use the term REALTOR if he/she belongs to a local board or association that enforces a strict Code of Ethics.

The **Boards** are the real estate boards and associations in whose jurisdiction the property is located and/or of which the Agent or the REALTOR is a member. They are associations which assist REALTORS to market and sell real estate. The Boards also provide ongoing training for their members, enforce ethical standards and help resolve disputes between members and the public.

The **Multiple Listing Service®** is a computerized database of real estate listings and sales. It is operated by the Boards in conjunction with other real estate boards and The Canadian Real Estate Association.

Personal Information means any personal information about you, including your name, address, phone number, financial information and may include information about your property (such as listing and selling price, listing term, etc.).

The **buyer** is often referred to as the purchaser.

The **seller** is often referred to as the vendor.

The **principal** is someone who has engaged an Agent to act for and on his or her behalf either to buy or sell real estate.

This pamphlet has been designed to explain various types of agency relationships, the collection, use and disclosure of personal information, and to help you understand what it all means. If you are still unclear about these concepts, feel free to seek legal counsel.

I acknowledge having received and read the brochure *Working With a Real Estate Agent*. I understand the various types of relationships that may occur between myself and a REALTOR.

I consent to the Boards, other real estate boards, the Agent and the REALTOR collecting, using and disclosing personal information for the purposes (and to the recipients) described in the brochure.

I further understand that I will be signing additional documentation acknowledging the type of agency that I receive and consenting to the collection, use and disclosure of personal information.

SIGNATURE

NAME (PRINT)

_____, yr. _____
DATED

ACKNOWLEDGED BY:

AGENT (PRINT)

PER SALESPERSON'S SIGNATURE