

A Buyer's Guide to Real Estate Agency

Who represents me? And who pays the fee?

We are pleased to have the opportunity to help you find just the right property. Your real estate purchase may be one of the largest investments you will make, and we want to assist you in every way we can. One of the first and most important choices you will need to make is the agency relationship with your Realtor. This document is designed to assist you in making an intelligent and appropriate choice.

What is meant by the terms “client” and “customer”?

The Seller in real estate transactions is traditionally a “client” who selects a real estate agent to represent him or her in the sale of a property. A “client” has a contract with an agent (real estate firm) which binds the agent to work for the client with undivided allegiance. In return, the Seller agrees to pay the agent a commission upon closing of the sale.

Until recently, the Buyer was usually a “customer.” In this case, the Realtor who is assisting you in your purchase is still working as a subagent of the Seller, with the Seller’s best interest in mind. Nevertheless, as a “customer,” you can count on your Realtor to:

- treat you honestly and ethically;
- provide helpful information about the property and respond accurately to questions about the property;
- disclose to you all material facts, including defects, of which the Realtor is aware;
- explain real estate terms and procedures;
- help you compare financing alternatives;
- arrange for property inspections;
- assist you in submitting your offer to purchase promptly to the Seller.

Now the Buyer also has the option of selecting “client” status. As a “client”, you would receive all of the above services.

In addition, your Realtor now must:

- represent your best interest (rather than the Seller’s)
- advise you on location, relative value, etc.;
- negotiate as your advocate to secure the best possible price and terms;
- keep confidential financial information that is not material to the transaction, your willingness to negotiate price and terms, and (if requested) your identity.

Please be certain you understand the difference!

As a prospective Buyer, what choice do I have in representation?

Any Buyer may elect “client” status. If you fit in any of the following categories, you should consider “client” status:

- relative, friend, or business partner or associate of the Realtor;
- former “customer” or “client” of the Realtor;
- anticipated future “client” of the Realtor; i.e. you have plans to sell a property in the future;
- a first-time Buyer or an out-of-town Buyer.

If you fit in the following categories, you must be a “client”:

- real estate agent buying for himself or herself;
- a Buyer who requires anonymity.

How will my choice affect me?

If you want your Realtor to be your advocate, to offer opinions of relative value, and to negotiate in your best interests, we recommend you complete an Exclusive Buyer Agency Agreement. In return for the additional services from your Realtor, you will be legally binding yourself to work with your selected Realtor exclusively, including the purchase of properties listed for sale by other companies, or by private Sellers.

How do I establish “customer” or “client” status?

Unless “client” status is specifically elected in writing, the Buyer is a “customer.” As soon as you begin to review real estate opportunities with your Realtor, he or she is bound to disclose that fact to you. If, after carefully reviewing your options, you wish to select “client” status, you can do so by completing an Exclusive Buyer Agency Agreement. Since this is a legally binding contract, read it carefully.

cont.

What happens when Beach Realty represents both the Buyer and the Seller as “clients”?

We may represent both sides in a “Dual Agency” situation as long as the relationship is disclosed and agreed to by all parties in writing. When the Buyer and the Seller are being represented by different Beach agents neither of whom has confidential information about the other’s client, each agent may be “designated” to serve the best interests of his or her client only. The Buyer’s Agent will continue to advocate for the Buyer and the Listing Agent will continue to advocate for the Seller, as “Designated (Dual) Agents.”

If one agent is representing both the Buyer and the Seller, then he or she is a simple “Dual Agent” with an obligation to treat both parties fairly and equally and may not disclose confidential information to either party. Likewise, if either the Buyer’s Agent or the Seller’s Agent has confidential information about the other’s client, they must both function as impartial “Dual Agents.” In these situations, both the Buyer and the Seller are playing on a level field, with no advantage to either side.

When should I elect to be a “customer” or “client” of the firm and its sales staff?

It is important that you, as a prospective Buyer, choose either “customer” or “client” status at the earliest time practical.

If I elect to become a “client” of your firm, who pays your brokerage fee?

In a transaction where the Buyer is a “customer” the seller automatically pays the fee, which is divided between the listing agency and the selling agency. Any Seller whose property is included in the Multiple Listing Service (MLS) must also indicate his or her willingness to pay the fee when the Buyer is a “client”. In those instances in which the Seller would not so agree, the Buyer would be responsible for the selling agency’s share of the fee. In any case, your Realtor will inform you in advance of viewing the property or presenting an offer.

Glossary

Agent: A person who represents and acts on behalf of another person in the purchase or sale of real estate.

Listing Agent: A licensed real estate agent who has entered into a contractual agreement with the owner of the property to serve as the agent of the owner for the specific purpose of finding a Buyer for the property.

Selling Agent: The Seller’s Subagent who cooperates with the listing agent in finding a Buyer for the property.

Seller’s Subagent: Any agent who is working with a buyer “customer”, including Selling Agents of the listing firm or those of cooperating firms.

Buyer’s Agent: The selling broker or agent having a contractual agreement with the Buyer to represent him or her in the purchase of a property.

Dual Agent: An agent or firm who represents both the buyer and the seller in a transaction. Both parties must be informed and of consent to Dual Agency for it to be legal and ethical.

Designated Agent: A Dual agent who represents only the best interests of either the Buyer or the Seller.

Client: A Buyer or a Seller who has entered into a contractual agreement with a real estate agent to represent him or her in the purchase or sale of real estate.

Customer: A Buyer of real estate who has not entered into an Exclusive Buyer Agency Agreement and who is, therefore, representing his or her own best interests.

Realtor: A real estate professional who is a member of the National Association of Realtors and subscribes to its strict Code of Ethics.