



WORKING WITH A REALTOR® (DESIGNATED AGENCY)

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, selling or leasing 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®, Brokerages and real estate boards need to collect, use and disclose some personal information to help you sell, buy or lease real estate.

A CLIENT RELATIONSHIP WITH YOUR DESIGNATED AGENT

REALTORS® work within a legal relationship called agency. The agency relationship exists between you, the client, and the REALTOR® or group of REALTORS® who is representing you and has been appointed to be your Designated Agent by the Brokerage in relation to which they are licensed. The essence of the agency relationship is that the Designated Agent has the authority to represent you in dealings with others.

Your Designated Agent is legally obligated to protect and promote your interests as they would their own. Unless you agree otherwise your Designated Agent has the following duties:

- 1) **Undivided loyalty.** The Designated Agent must protect your negotiating position at all times, and disclose to you all known facts which may affect or influence the client's decision.
- 2) **To obey your lawful instructions.**
- 3) An obligation to **keep your confidences.**
- 4) To **exercise reasonable care and skill** in performing all assigned duties.

A Brokerage has the duty to **account for all money and property** placed in a Brokerage's hands while acting for you.

Unless you agree otherwise your Designated Agent will also:

- Explain real estate terms and practices
- Provide and explain forms used
- Identify and estimate costs involved in a transaction
- Negotiate on your behalf
- Prepare offers or counter offers at your direction
- Present all offers promptly

You can expect competent service from your Designated Agent and their Brokerage, knowing that both your Designated Agent and their Brokerage are bound by ethics and the law to be honest and thorough in representing a property listed for sale or lease. Both buyer/tenant and seller/landlord can be represented by their own Designated Agents in a single transaction.

DESIGNATED AGENCY

Designated Agency allows for the Brokerage to designate a specific REALTOR® or REALTORS® to act as the agent for each client, rather than the whole Brokerage. This model allows for buyer/tenants and seller/landlords to be represented by their own REALTOR® or group of REALTORS® even where those REALTORS® work for the same Brokerage. Only when the same REALTOR® or group of REALTORS® is the Designated Agent for both the buyer/tenant and seller/landlord in the same transaction or for two buyer/tenants competing for the same property will the consent of the parties be required before that REALTOR® or group of REALTORS® is able to act as their limited dual agent.

LIMITED DUAL AGENCY

Under Designated Agency dual agency occurs when a Designated Agent is representing both the buyer/tenant and the seller/landlord in the same transaction or two or more buyer/tenants competing for the same property. Since the Designated 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 Designated Agent will deal with the parties **impartially**;
- b) **The Designated Agent will have a duty of disclosure to both the buyer/tenant and the seller/landlord except that:**
 - i) the Designated Agent will not disclose that the buyer/tenant is willing to pay a price or agree to terms other than those contained in the offer, or that the seller/landlord is willing to accept a price or terms other than those contained in the listing;
 - ii) in the case of two buyers/tenants the Designated Agent will not disclose the amount or terms of any offer to purchase or lease made or contemplated by either buyer/tenant;
 - iii) the Designated Agent will not disclose the motivation of the buyer/tenant to buy or lease or the seller/landlord to sell or lease unless authorized by the buyer/tenant or the seller/landlord;
 - iv) the Designated Agent will not disclose personal information, not otherwise necessarily disclosed in the transaction documentation, about the buyer/tenant or seller/landlord to the other party unless authorized in writing.
- c) The Designated Agent will disclose to the buyer/tenant defects about the physical condition of the property known to the Designated Agent.
- d) The Designated Agent will not be able to negotiate on either party's behalf.

A Designated Agent acting as a limited dual agent will still be able to:

- Explain real estate terms and practices
- Provide and explain forms used
- Identify and estimate costs involved in a transaction
- Prepare offers and counter offers at the direction of the parties
- Present all offers and counter offers promptly

A CUSTOMER 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/landlord's Designated 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 may 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 Designated Agent cannot:

- Recommend or suggest a price
- Negotiate on your behalf
- Inform you of his/her client's top/bottom line
- Disclose any confidential information about his/her client unless otherwise authorized by the client or required to do so by law

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

YOUR RESPONSIBILITIES AS A BUYER/TENANT OR A SELLER/LANDLORD

As a buyer/tenant or a seller/landlord, 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.

Members of the public are aware that in most cases properties offered for sale or lease by members of the real estate profession have a commission or fee that the seller/landlord has agreed to pay to the Listing Brokerage. The Listing Brokerage traditionally shares this commission/fee with the Cooperating Brokerage. Commission and fee may vary.

AGENCY ACKNOWLEDGEMENT

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

The seller/landlord has an agency relationship with

_____ (Designated Agent/Licensee)
who is licensed in relation to

_____ (Brokerage)

The buyer/tenant has an agency relationship with

_____ (Designated Agent/Licensee)
who is licensed in relation to

_____ (Brokerage)

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

_____ (Designated Agent/Licensee)
who is licensed in relation to

_____ (Brokerage)

having signed a Limited Dual Agency Agreement dated

_____, yr _____.

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

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

PRIVACY

REALTORS®, Brokerages and real estate boards need to collect, use and disclose some personal information to help you sell, buy or lease 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, Offer to Lease, 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:

- To allow members of real estate boards (including REALTORS® and appraisers) to appraise your property.
- To list your property with the Multiple Listing Service® System in order to market your property.
- To market your property for sale or lease through any other media (both print and electronic).
- To help you locate a suitable property to purchase or lease.
- To facilitate the purchase and sale or lease transaction (by cooperating with financial institutions, legal advisors and government departments and agencies).
- 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 lease rates, and to conduct comparative market analyses. Information about your property will be retained in the Multiple Listing Service® System for these purposes after your property has sold or leased or your listing has expired (if you are a seller/landlord) and after you have purchased or leased your property (if you are a buyer/tenant).
- 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).
- 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:

- Your REALTOR® may communicate with you in future to determine whether you require additional real estate services.
- Your REALTOR® may communicate with you to provide information about other products or services which may interest you.
- Other REALTORS® may communicate with you to determine whether you require additional real estate services.
- The Boards, other real estate boards and their members, and survey firms on their behalf, may communicate with you to determine if you wish to participate in customer satisfaction surveys and other surveys. 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.

DEFINITIONS

The **Brokerage** is the real estate company in relation to which the REALTOR® is licensed.

The **Designated Agent** is the REALTOR®(s) designated by the Brokerage to act as the sole agent for a buyer/tenant or seller/landlord.

REALTOR® is often used interchangeably with **licensee, real estate agent or representative** who are licensed under the *Real Estate Services Act*. A licensee can only use the term REALTOR® if he/she belongs to a local real estate 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 Brokerage or the REALTOR® is a member. They are boards and associations which assist REALTORS® to market, sell or lease 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® System** includes 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, lease rate, listing term, etc.).

The **client** (sometimes called the principal) is someone who has engaged a Designated Agent and their Brokerage to act for and on his or her behalf either to buy, sell or lease real estate.

The **customer** is a buyer/tenant or seller/landlord who receives services from a REALTOR®(s) who is not their Designated Agent.

This brochure 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.

ACKNOWLEDGEMENT

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

I consent to the Boards, other real estate boards, the Brokerage and the REALTOR®(S) 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.

This is not a service agreement and does not impose any contractual obligations

I acknowledge having received and read the brochure *Working With a REALTOR®* from the REALTOR® named below and have obtained satisfactory answers to any questions that it raised. I understand the various types of relationships that may occur between myself and a REALTOR® and acknowledge that my relationship with the undersigned REALTOR(s)® is

a client relationship under Designated Agency

Initials

or a customer relationship

Initials

ACKNOWLEDGED BY:

NAME (PRINT)

SIGNATURE

DATE

NAME OF REALTOR® (PRINT)

PER: REALTOR®'S SIGNATURE

NAME OF REALTOR® (PRINT)

PER: REALTOR®'S SIGNATURE

NAME OF BROKERAGE (PRINT)

REALTOR® is a trademark- describing members of The Canadian Real Estate Association who subscribe to a strict Code of Ethics and a high standard of professional service.