



From the desk of

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In the beginning of our relationship, whether we work together or not, you need to be advised of the nature of agency relationships in a real estate transaction. This information requires all real estate brokers, by law, to pass this information on to you. But I make it a point to explain it in depth (usually in person) as it affects your rights as a consumer and the amount of representation you have in a transaction.

This is actually a complex subject, so allow me to take a moment to 'splain this to you... and advise you of my personal work ethics on this subject. AND, for your own protection, you should also insist *any* agent you deal with fully explain the relationships that legally occur during a real estate transaction.

WHO REPRESENTS WHOM?

First & foremost: All contacts with either a buyer or seller are a contract with the brokerage, whether large franchises, or small, personal home businesses. In all cases, there will be a principle broker who is ultimately the true "agent".

Brokerages may opt to associate with sub-agents... sales associates that operate contractually for the brokerage. These subagents, while not the principle broker, are your representative from the brokerage and act for the broker's behalf in the transaction. Sub-agents' activities are required, by Oregon law, to be supervised by the principle broker of the brokerage. With that basic information in mind, we'll discuss the relationships of the brokerage and their subagents to consumers.

The Listing Agent/Brokerage: Works for the seller (the seller's agent) and their interests via a signed contract. They are obligated to give their fiduciary loyalties and duties to them first.

The Buyer's Agent/Brokerage: Works for the buyer and their interests - contract agreements not required, but not unusual. With rare exceptions (such as with Exclusive Buyer's Agents, aka EBA's), they are most often paid for their services through escrow by the listing agent, who offers a percentage of the agreed upon commission with the seller to the buyer's agent. This is called a co-op transaction.

(Sidenote: Commissions are not paid to subagents, but to the brokerages involved. The brokerage then pays the subagents per their contractual agreement. In a co-op transaction involving two agents, the commissions are split four ways: to each brokerage, then to the subagents. If there is only one agent involved for both seller and buyer, the entire commission is split between the lone dual agent and the brokerage involved, per contract agreement.)

Limited Dual Agent: It is legal in Oregon for an agent to represent both the buyer and the seller. But only when disclosed, and then with limitations.

Under current law (effective July 1st, 2002), sub-agents are now considered "brokers". Thus two sub-agents/brokers, working for the same brokerage, may operate as designated representatives for the buyer and seller in the same transaction. However the brokerage itself, and all employed principal brokers, are still considered a limited dual agent.

A dual agent must tread lightly in negotiations. When representing a seller, agents cannot discuss seller motivation or price with buyers for that property as it may negatively impact the sellers' interests. It's as simple as this... sellers wish to get the highest price possible for their home. Buyers wish to obtain the property for the best price possible. Can an agent do both and leave both principles feeling they got the full service they expected for when picking their agent? While dual agency is legal in Oregon, it is a situation I avoid unless both seller and buyer insist I act as agent for both parties. My preference is to refer a buyer to another agent for my own listed properties.



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