

AGENCY RELATIONSHIP

Who does a real estate agent represent in the sale of real property? Is it the buyer, the seller, or both? If you have been involved in a real estate transaction in the recent past, you should have had agency relationships explained to you by your agent. As a matter of fact, South Carolina Real Estate License Law requires all licensed real estate agents to provide prospective clients and customers with an agency brochure along with a meaningful explanation of agency relationships at the first practical opportunity.

In the minds of the general public, there still seems to be confusion on who an agent works for and even on how they are paid. In the early days, all agents represented the seller. It was always the seller that paid the commission. Potential buyers would select an agent to assist them in finding their “dream home.” This agent would drive the buyers around for weeks and sometimes months. They would eat lunches together, discuss their children, sports, politics, and basically create a bond. They would become friends. Finally, they would find the “dream home” and everyone was excited, both the buyers and the real estate agent. If the buyers had to have the home, they would pay full asking price, if needed. For sake of discussion, say the asking price was \$100,000.00. The buyer would tell the agent, “let’s offer \$90,000.00, but I’ll pay the \$100,000.00 if I have to.” The agent would then submit an offer of \$90,000.00 and tell the listing agent that, “the buyer would pay \$100,000.00 if he had to.”

This was an obvious problem; the buyer felt that he could discuss his strategy in confidence, while the agent was actually representing a seller that he had never even met. The seller was paying the real estate commission and the agent knew that the higher the sales price, the higher his commission would be.

The South Carolina Real Estate Commission, under the Department of Labor, Licensing and Regulation (also known as LLR), heard these complaints on a regular basis. With the responsibility to protect the public, the Commission took steps to clarify the relationships between real estate agents and their clients and customers.

The brochure created for this explanation starts off by informing the difference between a broker-in-charge and an associated licensee. It then explains the difference between a customer and a client. The law defines buyers and sellers who choose not to establish an agency relationship as customers; as opposed to a client, which is someone that signs either a formal listing agreement or a formal buyer agency agreement.

With a formal written agreement, an agent can represent a seller or a buyer. Once you are established as a client, you can expect the following services from your agent: obedience, loyalty, disclosure, confidentiality, accounting, and reasonable care and skill. These services also include advice, counsel and assistance in negotiations.

When the real estate company represents one client in a transaction, it is considered a single agency relationship. A dual agency relationship exists when the company has two clients in one transaction – a seller client and a buyer client.

The third type of agency is designated agency, where a broker-in-charge may designate individual associated licensees to act solely on behalf of each client. The broker-in-charge remains a disclosed dual agent for both clients and ensures the assigned agents fulfill their duties to their respective clients.

So, if for some reason your real estate agent gets sidetracked and fails to explain agency relations, be sure that you ask and understand who is representing you.

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