

The Agency Relationship

REALTORS work within a legal relationship called *agency*. The agency relationship exists between you, the *Client*, and the brokerage, your *Agent*.

The essence of the agency relationship is that the Agent has the authority to represent the Client in dealings with others. Agents are obligated to protect and promote the interests of their clients as they would their own. Specifically, the Agent has the following fiduciary duties:

- (1) **Loyalty.** The Agent must protect the Client's negotiating position at all times and work in the best interest of the Client.
- (2) **Obedience.** The Agent must carry out all lawful instructions of the Client.
- (3) **Confidentiality.** The Agent has an obligation to keep the confidences of the Client.
- (4) **Reasonable care and skill** in performing all assigned duties.
- (5) **Full disclosure** of all relevant information that is known by the agent and that may influence the Client's decision or affect the value of the property.
- (6) **Full accounting** for all money and property placed in the Agent's hands while acting for the Client.

You can expect competent service from your Agent, knowing that the brokerage is bound by ethics and the law to be honest and thorough in every real estate transaction.

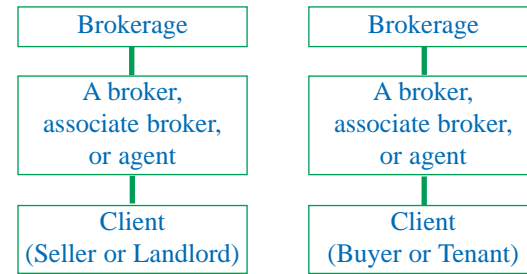
This approach is reflected in the standard real estate contracts produced by the Alberta Real Estate Association. Please feel free to ask your REALTOR to show you the contracts appropriate to your real estate transaction.

The Client, as well, has duties towards the Agent.

- (1) You have the duty to compensate the Agent for the expenses that the Agent incurs as a result of carrying out the Agent's responsibilities.
- (2) You have the duty to pay the agreed-upon remuneration or compensation as outlined in the signed contract.

In addition, you have a duty to disclose material facts to the Third Party in the real estate transaction.

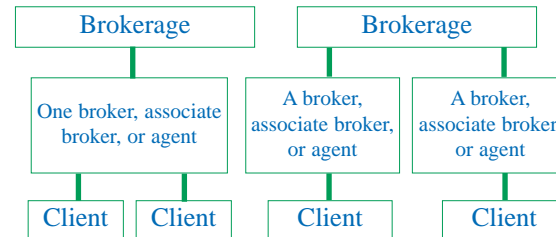
Single Agency



Single Agency occurs when both Buyer and Seller (Landlord and Tenant) are represented by their own Agent from different brokerages in a real estate transaction. Each Agent owes full fiduciary duties to its own Client.

Dual Agency

Dual Agency occurs when one brokerage, trading in real estate from one or more locations, represents two parties with respect to the potential purchase/lease of a property.



One individual representing two (or more) clients in the same transaction

Two individuals working for the same brokerage in the same transaction

Since the brokerage is working for both parties, it is necessary to limit (as described below) the fiduciary duties owed to both Clients. These limitations on the fiduciary duties will also apply for buyers when one brokerage represents two or more buyers.

In real estate sales, the Dual Agent:

- (a) will *not*, without prior written permission of the applicable Client, disclose to the other Client(s):
 - (i) that the Seller will accept a price less than the asking price (or a countered selling price),
 - (ii) that the Buyer will pay a price higher than the price offered,
 - (iii) the reason the Seller is selling and the Buyer is buying, and
 - (iv) the terms and conditions of competing offers.
- (b) *will* disclose to both parties all known defects and information that materially affect or may materially affect the marketability or value of the property.

In leasing transactions, the Dual Agent:

- (a) will *not*, without prior written permission of the applicable Client, disclose to the other Client(s):
 - (i) that the Landlord will accept a price lower than the asking rate (or a countered asking rate),
 - (ii) that the Tenant will pay a price higher than the rate offered,
 - (iii) the reason the Landlord is leasing and the Tenant is seeking to lease, and
 - (iv) the terms and conditions of competing offers.
- (b) *will* disclose to both parties all known defects and information that materially affect or may materially affect the marketability or value of the property.

Acknowledgment

I have received an explanation of agency relationships and have read the brochure "Agency Disclosure".

In accordance with the disclosure in the brochure, I acknowledge that:

Brokerage name

represented by:

Name of broker, associate broker, or agent registered to the brokerage

may act as a Dual Agent in possible real estate transactions, in addition to their role as:

___ Seller's Agent ___ Buyer's Agent

___ Landlord's Agent ___ Tenant's Agent

Signature

Signature

Date

This panel is to be detached and retained in the Agent's (brokerage) files.

A REALTOR shall fully disclose in writing to, and is advised to seek written acknowledgment of disclosure from, all parties to a transaction regarding the role and the nature of service the REALTOR will be providing to the client versus the customer or other party to the transaction. The REALTOR shall also disclose his or her role to other REALTORS involved in the transaction.

Unrepresented Parties

The Seller/Landlord may wish to act on its own behalf. In this situation, the Seller/Landlord understands that the brokerage (including its broker, associate brokers, and agents) represents the Buyer/Tenant as Buyer's Agent/Tenant's Agent and owes no duties to the Seller/Landlord.

The Buyer/Tenant may wish to act on its own behalf. In this situation, the Buyer/Tenant understands that the brokerage (including its broker, associate brokers, and agents) represents the Seller/Landlord as Seller's Agent/Landlord's Agent and owes no duties to the Buyer/Tenant.

Definitions

Under the **Law of Agency**:

- the Agent is the individual or entity who works on behalf of another individual or entity (e.g. the brokerage).
- the Principal is the individual or entity on whose behalf the Agent works; also called the Client.
- the Third Party is the individual or entity who is not represented by an Agent or is represented by a *different* Agent.

In Alberta, a **broker / associate broker / agent** is licensed under the *Real Estate Act* and registered to a licensed real estate company called the **brokerage**.

The Seller is the Client who engages a brokerage to act on behalf of the Seller when selling real estate.

The Seller's Agent represents the Seller and is the licensed brokerage including the broker, associate brokers, and agents registered to it.

The Buyer is the Client who engages a brokerage to act on behalf of the Buyer when buying real estate.

The Buyer's Agent represents the Buyer and is the licensed brokerage including the broker, associate brokers, and agents registered to it.

The Landlord is the Client who engages a brokerage to act on behalf of the Landlord when offering to lease real estate.

The Landlord's Agent represents the Landlord and is the licensed brokerage including the broker, associate brokers, and agents registered to it.

The Tenant is the Client who engages a brokerage to act on behalf of the Tenant when leasing real estate.

The Tenant's Agent represents the Tenant and is the licensed brokerage including the broker, associate brokers, and agents registered to it.

A Dual Agent represents *both* the Seller *and* the Buyer (or the Landlord and the Tenant), or more than one buyer or tenant, and is the licensed brokerage including the broker, associate brokers, and agents registered to it.

The singular terms "The Seller" and "The Buyer" or "The Landlord" and "The Tenant" include the plural where applicable.

Buyers are sometimes referred to as purchasers; sellers are sometimes referred to as vendors.

Brokers, associate brokers, and agents can use the term **REALTOR** only if they belong to a local real estate board, and its provincial and national real estate associations, that enforce a strict code of ethics and standards of business practice.

Advice to Buyer and Seller, Landlord and Tenant

- **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, property inspectors, environmental assessors, contractors, engineers, and surveyors.**



AGENCY DISCLOSURE

Members of the Canadian Real Estate Association are required to abide by a strict Code of Ethics and Standards of Business Practice, which serves to protect the buying and selling public alike. One of the ethical obligations embodied in the Code requires that REALTORS disclose who they are representing in a real estate transaction. Article 3 states:

A REALTOR shall fully disclose in writing to, and is advised to seek written acknowledgment of disclosure from, all parties to a transaction regarding the role and the nature of service the REALTOR will be providing to the client versus the customer or other party to the transaction. The REALTOR shall also disclose his or her role to other REALTORS involved in the transaction.