

Virginia law and regulations require real estate agents to disclose their agency relationships to all prospective customers and clients. In addition to meeting the requirement, this disclosure is intended to educate consumers about agency relationships and the duties of real estate agents, brokers, and firms. For convenience, this group is referred to as “licensees” since they are all required to be licensed by the Virginia Real Estate Board.

Agency is the relationship when one person works for or represents another person by express authority. People who licensees represent are called clients. People who receive services from licensees without being represented by the licensees are called customers. A licensee does not necessarily represent the person who pays him or her. As a result, a licensee can represent the buyer, but be paid by the sellers, or vice versa. Although agency relationships can be formed without a written agreement, you should not assume that any person represents you unless you have a written agreement with them. The agreement between the licensee and the client creates a brokerage relationship.

Client Status. As a client, you enter into an agreement with a licensee for that licensee to represent you. This agreement may be called a “listing”, a “management agreement”, a “buyer broker agreement”, or an “agency agreement”, depending on whether you are a seller, landlord, buyer or tenant. You are then the licensee’s client. If the agreement is an exclusive agreement, you are required to work through that licensee. The licensee will generally be entitled to a commission if you buy, sell, or lease (as appropriate) property, even if you do not use the services of the licensee. The licensee is required to give you advice as to price and other matters and to disclose any material information known to the licensee about the property of the transaction. The licensee will also help you to negotiate favorable terms. The licensee is also required not to disclose to other parties any personal or financial information about you or any other information you ask to be kept confidential.

Customer Status. As a customer, you do not sign an agreement with a licensee (although the licensee is still required to obtain a disclosure form). You are then the licensee’s customer. The licensee will represent the other party in the transaction, who will be the licensee client. You are not legally required to work through the licensee, and the licensee will only be entitled to a commission if you buy, sell or lease (as appropriate) property through the licensee. The licensee can give you general advice and is required to treat you honestly and disclose material facts known to the licensee regarding the physical condition of the property, but the licensee generally cannot give advice regarding price or assistance in negotiating favorable terms. The licensee is required to disclose to their client any information which it knows which may be helpful to the client. If you will be a customer, you should be aware that there may be other relevant information concerning the transaction which may be obtained from other sources.

Additional Duties of Licensees. In addition to the duties that are described above and any duties included in the agreement between the licensee and the client, licensees have certain duties under Virginia law and the Virginia Real Estate Board regulations. Licensees must promote the interest of their client by seeking a buyer or tenant or an appropriate property for their client, although they are not required to continue these efforts after a contract has been signed, and by timely presenting all written offers and counter-offers. Licensees must account to their clients for all money and property which the licensee receives in which the client has an interest. Licensees who represent buyers must disclose to a seller whether the buyer intends to occupy a property as their principal residence. Before a licensee enters into a brokerage relationship, the licensee must advise the prospective client of the type of relationship which is proposed, and the licensee’s compensation and whether the licensee will share that compensation with a licensee who presents another party to the transaction. Licensee’s owe their clients a duty of ordinary care.

Dual Agency. Dual Agency, or Dual Representation is when the same licensee represents both the buyer and the seller or the landlord and the tenant. This generally happens when a buyer or tenant who is a client of the licensee becomes interested in a property which is listed with the same real estate company. This leads to conflicts of interest, which Virginia law permits licensees to handle in two different ways. The first alternative is Simple Dual Agency. With this alternative, the broker and all salespersons continue to represent both parties, but they don’t share any confidential information. The other alternative involves the use of Designated Representatives. With this alternative, the broker is still a dual agent, but separate agents are named to represent the buyer and seller or landlord and tenant, and these agents represent their respective clients as if the agents work for separate companies. Both agents give their best advice and keep the confidences of their clients. Licensees are required by law to disclose to both parties whenever a dual agency relationship arises and any time designated representatives are used, and all parties must then sign a Disclosure of Dual Representation or Disclosure of Use of Designated Representatives form.

Firm Policies. When representing sellers, landlords, and optionors, the real estate firm listed below (the “Firm”) has a policy of cooperating with both licensees who work with the other party as customers, and licensees who work with the other party as clients, unless otherwise instructed by the Firm’s client. The Firm _____ will or _____ will not compensate licensees who do not represent the Firm’s client. When working with buyers, either as customers or clients, the Firm’s policy is to show properties listed with the Firm and other real estate firms. When working with buyers/tenants/optionees as customers, the Firm _____ will or _____ will not show properties being offered for sale by owner if the owner will enter into a listing agreement for that showing.

This is not an agreement, but only a disclosure form.

DISCLOSURE OF BROKERAGE RELATIONSHIP

I acknowledge that _____

(Name of Firm and Salesperson)

has disclosed to me that it represents the following party in this real estate transaction:

_____ Seller _____ Landlord _____ Optionor _____ Buyer _____ Tenant _____ Optionee

Date

Printed Name

Signature

Date

Printed Name

Signature

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