

Buyer Agency - A Cautionary Tale

Agency refers to the legal relationship between a **principal** (i.e. a buyer or a seller in this instance) and his or her **agent**, arising from a contract in which the principal engages the agent to perform certain acts on his or her behalf. In the case of a Seller, the relationship is straightforward insofar as it concerns the **agent** whom the Seller has chosen to market the home. The listing agent has a clear relationship to the Seller, and it is to the Seller that the listing agent owes loyalty. This type of relationship is known as **Seller Agency**.

Buyer Agency, on the other hand, can be a minefield for both buyers and agents involved in a real estate transaction. This is because the agency relationship between you (the buyer) and the sales representative that you work with can seem to fly in the face of common sense.

In the absence of a signed **Buyer Agency Agreement** between you and the sales representative with whom you are working, with certain specific exceptions, this sales representative is deemed to be **WORKING FOR THE SELLER**. This agency relationship between your sales representative and the Seller would then require him to negotiate **for the highest possible** price and to structure the sale to the **Seller's advantage**. This is one of the "dirty little secrets" of real estate sales as it has been practiced over the years.

A **Buyer Agency** relationship must be **specifically** created between you and your sales representative if you want him or her to be working for your benefit. Generally, this will involve signing a **Buyer Agency Agreement**. Entering into this type of relationship will bring you many benefits. Compare the services provided and duties owed to you under the two common types of agency relationship below:

SERVICES PROVIDED & DUTIES OWED TO YOU BY YOUR AGENT	SELLER AGENCY	BUYER AGENCY
Arrange viewings of property.	✓	✓
Answer all questions honestly and provide accurate information.	✓	✓
Explain all forms & the Agreement of Purchase and Sale.	✓	✓

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Assist with financing, if requested.	✓	✓
Monitor all closing details of transaction.	✓	✓
Give you advice/counsel.	X	✓
Keep your bargaining & financial positions confidential.	X	✓
Point out reasons <u>NOT</u> to buy, if any.	X	✓
Promote & protect <u>YOUR</u> best interests.	X	✓
<u>Require</u> full disclosure of property defects from seller.	X	✓
Pass on information obtained from seller or seller's agent on <u>THEIR</u> bargaining/financial positions.	X	✓
Assist in writing the Offer with <u>YOUR</u> best in interests in mind.	X	✓

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