

**“MREC Brokerage Relationship and
Disclosure”**
(formerly MREC Agency-Residential)

(MD Course #109-2634-H)

(DC Course #PC9518)



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STATE OF MARYLAND REAL ESTATE COMMISSION
Understanding Whom Real Estate Agents Represent

THIS NOTICE IS NOT A CONTRACT

In this form "seller" includes "landlord"; "buyer" includes "tenant"; and "purchase" or "sale" includes "lease"

Agents Who Represent the Seller

Seller's Agent: A seller's agent works for the real estate company that lists and markets the property for the sellers and exclusively represents the sellers. A seller's agent may assist the buyer in purchasing the property, but his or her duty of loyalty is only to the seller.

Subagent: A Subagent means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who is not affiliated with or acting as the listing real estate broker for a property, is not a buyer's agent, has a brokerage relationship with the seller, and assists a prospective buyer in the acquisition of real estate for sale in a non-brokerage relationship capacity. The subagent works for a real estate company different from the company for which the seller's agent works. The subagent can assist a buyer in purchasing a property, but his or her duty of loyalty is only to the seller.

If you are viewing a property and you have not signed a Brokerage Agreement, that agent represents the seller

Agents Who Represent the Buyer

Buyer's Agent: A buyer may enter into a written contract with a real estate broker which provides that the broker will represent the buyer in locating a property to buy. The agent from that broker's company is then known as the buyer's agent. The buyer's agent assists the buyer in evaluating properties and preparing offers and developing negotiation strategies and works in the best interest of the buyer. The agent's fee is paid according to the written agreement between the broker and the buyer. If you as a buyer wish to have an agent represent you, you must enter into a written brokerage agreement.

Dual Agents

The possibility of **dual agency** arises when the buyer's agent and the seller's agent both work for the same real estate company, and the buyer is interested in property listed by that company. The real estate broker or the broker's designee, is called the "dual agent." Dual agents do not act exclusively in the interests of either the seller or buyer, and therefore cannot give undivided loyalty to either party. There may be a conflict of interest because the interests of the seller and buyer may be different or adverse.

If both seller and buyer agree to dual agency by signing a Consent For Dual Agency form, the "dual agent" (the broker or the broker's designee) shall assign one agent to represent the seller (the seller's "intra-company agent") and another agent to represent the buyer (the buyer's "intra-company agent"). Intra-company agents are required to provide the same services to their clients that agents provide in transactions not involving dual agency, including advising their clients as to price and negotiation strategies.



If either party does not agree to dual agency, the real estate company must withdraw the brokerage agreement for that particular property with either the buyer or seller, or both. If the seller's agreement is terminated, the seller must then either represent him or herself or arrange to be represented by an agent from another real estate broker/company. If the brokerage agreement is terminated, the buyer may choose to enter into a written brokerage agreement with a different broker/company. Alternatively, the buyer may choose not to be represented but simply to receive assistance from the seller's agent, from another agent in that company, or from a subagent from another company.

No matter what type of agent you choose to work with, you have the following rights and responsibilities in selling or buying property:

- >Real estate agents are obligated by law to treat all parties to a real estate transaction honestly and fairly. They must exercise reasonable care and diligence and maintain the confidentiality of clients. They must not discriminate in the offering of properties; they must promptly present each written offer or counteroffer to the other party; and they must answer questions truthfully.
- >Real estate agents must disclose all material facts that they know or should know relating to a property. An agent's duty to maintain confidentiality does not apply to the disclosure of material facts about a property.
- >All agreements with real estate brokers and agents must be in writing and explain the duties and obligations of both the broker and the agent. The agreement must explain how the broker and agent will be paid and any fee-sharing agreements with other brokers.
- >You have the responsibility to protect your own interests. **You should carefully read all agreements** to make sure they accurately reflect your understanding. A real estate licensee is qualified to advise you on real estate matters only. If you need legal or tax advice, it is your responsibility to consult a licensed attorney or accountant.

Any complaints about a real estate licensee may be filed with the Real Estate Commission at 500 North Calvert Street, Baltimore, MD 21202. (410) 230-6230.

We, the ☐ Sellers/Landlord ☐ Buyers/Tenants acknowledge receipt of a copy of this disclosure

and that _____ (firm name)

and _____ (salesperson) are working as:

(You may check more than one box but not more than two)

- ☐ seller/landlord's agent
- ☐ subagent of the Seller
- ☐ buyer's/tenant's agent

Signature _____ (Date) _____

Signature _____ (Date) _____

I certify that on this date I made the required agency disclosure to the individuals identified below and they were **unable or unwilling** to acknowledge receipt of a copy of this disclosure statement.

Name of Individual to whom disclosure made

Name of Individual to whom disclosure made

Agent's Signature

(Date)



STATE OF MARYLAND
REAL ESTATE COMMISSION

Consent for Dual Agency

(In this form, the word "seller" includes "landlord"; "buyer" includes "tenant"; and "purchase" or "sale" includes "lease")

When Dual Agency May Occur

The possibility of Dual Agency arises when:

- 1) The buyer is interested in a property listed by a real estate broker; and
- 2) The seller's agent and the buyer's agent are affiliated with the same real estate broker.

Important Considerations Before Making a Decision About Dual Agency

A broker or the broker's designee, acting as a dual agent does not exclusively represent either the seller or buyer; there may be a conflict of interest because the interests of the seller and buyer may be different or adverse. As a dual agent, the real estate broker does not owe undivided loyalty to either the seller or buyer.

Before the buyer and seller can proceed to be represented by a broker acting as a dual agent, they must both sign Consent for Dual Agency. If the buyer has previously signed this Consent for Dual Agency, the buyer must **affirm** the buyer's consent for the purchase of a particular property before an offer to purchase is presented to the seller. If the seller has previously signed Consent for Dual Agency, the seller must **affirm** the seller's consent for the sale of the property to a particular buyer before accepting an offer to purchase the property. The **affirmation** is contained on Page 2 of this form.

Your Choices Concerning Dual Agency

In a possible dual agency situation, the buyer and seller have the following options:

1. **Consent in writing to dual agency.** If all parties consent in writing, the real estate broker or the broker's designee (the "dual agent") shall assign one real estate agent affiliated with the broker to represent the seller (the seller's "intra-company agent") and another agent affiliated with the broker to represent the buyer (the buyer's "intra-company agent"). Intra-company agents are required to provide the same services to their clients that agents provide in transactions not involving dual agency, including advising their clients as to price and negotiation strategy.
2. **Refuse to consent to dual agency.** If either party refuses to consent in writing to dual agency, the real estate broker must terminate the brokerage relationship for that particular property with the buyer, the seller, or both. If the seller terminates the brokerage agreement, the seller must then either represent him or herself or arrange to be represented by another real estate company. If the buyer terminates the brokerage agreement the buyer may choose not to be represented but simply receive assistance from the seller's agent, from another agent in that company, or from a subagent from another company. Alternatively, the buyer may choose to enter into a written brokerage agreement with a different company.

Buyers Intra-Company Agent

Duties of a Dual Agent and Intra-Company Agent

Like other agents, unless the client gives consent to disclose the information, dual agents and intra-company agents must keep confidential information about a client's bargaining position or motivations. For example, without written consent of the client, a dual agent or intra-company agent may not disclose to the other party, or the other party's agent:

- 1) Anything the client asks to be kept confidential; *
- 2) That the seller would accept a lower price or other terms;
- 3) That the buyer would accept a higher price or other terms;
- 4) The reasons why a party wants to sell or buy, or that a party needs to sell or buy quickly; or
- 5) Anything that relates to the negotiating strategy of a party.

* **Dual agents and intra-company agents must disclose material facts about a property to all parties.**

How Dual Agents Are Paid

Only the broker receives compensation on the sale of a property listed by that broker.

If a financial bonus is offered to an agent who sells property that is listed with his/her broker, this fact must be disclosed in writing to both the buyer and seller.

Consent for Dual Agency

I have read the above information, and I understand the terms of the dual agency. I understand that I do not have to consent to a dual agency and that if I **refuse** to consent, there will not be a dual agency; and that I may withdraw the consent at any time upon notice to the dual agent. I hereby **consent** to have

✓ Print your company's name _____ act as a Dual Agent for me as the
(Firm Name)

____ Seller in the sale of the property at: _____

✓ Buyer in the purchase of a property listed for sale with the above-referenced broker.

✓ Buyer signs + dates

Signature

Date

Signature

Date

AFFIRMATION OF PRIOR CONSENT TO DUAL AGENCY

- The undersigned **Buyer(s)** hereby affirm(s) consent to dual agency for the following property:

✓ Print the property address
Property Address

✓ Buyer signs + dates

Signature

Date

Signature

Date

- The undersigned **Seller(s)** hereby affirm(s) consent to dual agency for the Buyer(s) identified below:

Name(s) of Buyer(s)

Signature

Date

Signature

Date

Seller's Intra Company Agent

Duties of a Dual Agent and Intra-Company Agent

Like other agents, unless the client gives consent to disclose the information, dual agents and intra-company agents must keep confidential information about a client's bargaining position or motivations. For example, without written consent of the client, a dual agent or intra-company agent may not disclose to the other party, or the other party's agent:

- 1) Anything the client asks to be kept confidential; *
- 2) That the seller would accept a lower price or other terms;
- 3) That the buyer would accept a higher price or other terms;
- 4) The reasons why a party wants to sell or buy, or that a party needs to sell or buy quickly; or
- 5) Anything that relates to the negotiating strategy of a party.

* **Dual agents and intra-company agents must disclose material facts about a property to all parties.**

How Dual Agents Are Paid

Only the broker receives compensation on the sale of a property listed by that broker.

If a financial bonus is offered to an agent who sells property that is listed with his/her broker, this fact must be disclosed in writing to both the buyer and seller.

Consent for Dual Agency

I have read the above information, and I understand the terms of the dual agency. I understand that I do not have to consent to a dual agency and that if I **refuse** to consent, there will not be a dual agency; and that I may withdraw the consent at any time upon notice to the dual agent. I hereby **consent** to have

✓ Print your company's name (Firm Name) _____ act as a Dual Agent for me as the

✓ Seller in the sale of the property at: Print the property address _____

_____ Buyer in the purchase of a property listed for sale with the above-referenced broker.

✓ Seller signs + dates

Signature

Date

Signature

Date

AFFIRMATION OF PRIOR CONSENT TO DUAL AGENCY

- The undersigned **Buyer(s)** hereby affirm(s) consent to dual agency for the following property:

Property Address _____

Signature

Date

Signature

Date

- The undersigned **Seller(s)** hereby affirm(s) consent to dual agency for the Buyer(s) identified below:

✓ Print the Buyer's name

Name(s) of Buyer(s) _____

✓ Seller signs + dates

Signature

Date

Signature

Date

ATTENTION LICENSEES: THIS IS NOT AN ADDENDUM IT IS SUGGESTED LANGUAGE. A form created by your broker company with the below information must be presented to the Seller no later than when the Seller signs the listing agreement and the Buyer, prior to showing any properties listed by members of your team.

NOTIFICATION OF DUAL AGENCY WITHIN A TEAM

Under Maryland law, a team that provides real estate brokerage services must consist of two or more associate brokers or salespersons, or a combination of the two, who:

1. work together on a regular basis;
2. represent themselves to the public as being part of one entity; and
3. Designate themselves by a collective name such as "team" or "group."

The team operates within a brokerage, and team members are supervised by a team leader as well as by the broker, and, if they work in a brokerage branch office, by the branch office manager.

The law permits one member of a team to represent the buyer and one member to represent the seller in the same transaction only if certain conditions are met. If both parties agree, the **broker** of the real estate brokerage with which the salespersons or associate brokers are affiliated or the **broker's designee** (the "dual agent") shall designate one team member as the intra-company agent for the buyer and another team member as the intra-company agent for the seller. No one else may make that designation.

The law also requires that the buyer and seller each be notified in writing that the two agents are members of the same team, and that the team could have a financial interest in the outcome of the transaction in addition to any financial benefit obtained by selling one of the broker's own listings. **THIS CONSTITUTES YOUR NOTICE OF THOSE FACTS.**

Dual agency may occur only if both parties consent to it, and sign the Consent for Dual Agency form prescribed by the Real Estate Commission. If you have concerns or questions about being represented by a team member when another team member represents the other party, you should address these to the broker or branch office manager before signing the Consent form.

ACKNOWLEDGMENT OF RECEIPT OF NOTICE

I/we acknowledge receipt of the Notification of Dual Agency within a Team.

DATE: _____

Do's and Don'ts for Teams and Groups - Real Estate Commission

Teams

✓ A Team must consist of two or more Associate Brokers or Salespersons or a combination of the two who:

1. Work together on a regular basis;
2. Represent themselves to the public as being part of one entity; AND
3. Designate themselves by a collective name such as "Team or Group."

✓ All licensed team members must be affiliated with the same broker; and, if applicable, offer brokerage services at the same branch office.

✗ A licensed broker may **NOT** be a member of a Team.

✗ The name of the Team may **NOT** contain the terms "Real Estate," "Real Estate Brokerage," "Realty," or any other term that would lead the public to believe that the Team is offering real estate brokerage services independent of the Broker.

✓ Team members must conduct all real estate brokerage activities from the broker's office or the branch office where their licenses are displayed.

✗ A Team may **NOT** operate out of an office or location other than the broker's office or the branch office where their licenses are displayed.

Advertising

✓ All Team advertising must contain:

1. The full name of the brokerage displayed in a meaningful and conspicuous way;
2. The name of at least one of the licensee members of the Team; and
3. The telephone number of the broker or the branch office manager.

✓ The Team name in the advertisement must be directly connected to the name of the brokerage.

✓ "Advertise" means the use of any oral, written, or visual advertisement by a licensed real estate salesperson, licensed real estate broker, licensed associate real estate broker, or other person on behalf of a licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker. "Advertisement" means, unless the context requires otherwise, any oral, written, or printed media advertisement. "Advertisement" includes any correspondence, mailing, newsletter, brochure, business card, for sale or for lease sign and sign rider, promotional item, automobile signage, telephone directory listing, television announcement, radio announcement, telephone solicitation, and World Wide Web and Internet voice-overs. (§17-527.2 Annotated Code of MD)

Team Leaders

- ✓ A Team must designate a team member as its Team Leader. The Team Leader must be an Associate Broker or a Salesperson with at least three years' experience.
- ✓ The Team Leader must maintain a current list of all members and employees of the Team.
- ✓ The Team Leader must provide the list and any revisions to the list to the Broker or the Branch Office Manager where the Team Members' licenses are displayed.
- ✓ The Team Leader must exercise reasonable and adequate supervision over the provision of real estate services by members of the Team.

Brokers and Branch Office Managers

- ✓ The Broker or Branch Office Manager must maintain copies of the lists of Team Members and Employees, and make the copies available to the Commission on request.
- ✓ The Broker and Branch Office Manager must supervise the Team Members, and this supervision is in addition to the supervision responsibilities of the Team Leader.
- ✗ The Broker and Branch Office Manager may not delegate their supervisory responsibilities over Team Members to the Team Leader.

Team Leaders and Members

- ✓ The Team Leader and all Team Members must adhere to all office rules, practices, and procedures established by the Broker and the Branch Office Manager.

Dual Agency

- ✓ The Broker may designate two members of a team as intra-company agents for the Buyer and the Seller in the same transaction if the parties have **FIRST** been advised in writing that the Licensees are part of the same team and the team could have a financial interest in the outcome of the transaction. The Buyer and Seller must complete the "Notification of Dual Agency within Team" form (Word) required under existing law before Dual Agency may occur.
- ✗ The Team Leader may **NOT** designate Team Members as intra-company agents. Only the Broker may make this designation.
- ✓ The Broker must ensure that both parties have acknowledged in writing receipt of a "Notification of Dual Agency within a Team" form **PRIOR** to designating two Team Members as intra-company agents in a transaction.

**ATTENTION PROSPECTIVE PURCHASERS
PLEASE READ THIS SIGN CAREFULLY**

This is to advise you that the agent who is conducting this Open House **REPRESENTS THE SELLER(S) AND IS REQUIRED BY LAW TO PROMOTE THE INTERESTS OF THE SELLER(S).**

ANY INFORMATION YOU GIVE THIS AGENT IS NOT CONSIDERED CONFIDENTIAL under the Maryland Real Estate Brokers Act and could be disclosed to the seller of this property.

You, as a buyer, are entitled to have someone represent you as a buyer's agent if you are interested in this property. The duties of a buyer's agent include helping you to evaluate the property, prepare an offer on the property, and negotiate in your best interests.

10/1/2019

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COURSE OUTLINE
REAL ESTATE BROKERAGE RELATIONSHIPS AND DISCLOSURES - RESIDENTIAL
APPROVED COURSE OF THE MARYLAND REAL ESTATE COMMISSION
CATEGORY (H)

I. INTRODUCTION

A. Effective Date of Original Law: January 1, 1999

Effective Date of Revision: October 1, 2019

B. Application of Law

1. Applies to:

- a. The sale or lease of real property improved by one, two, three, or four single family units.
- b. Unimproved real property zoned for residential use by the local zoning authority of the county or municipality in which the real property is located.
- c. Lease of more than 125 days.

C. Definition of Terms

1. "Broker" means a licensed real estate broker, including a corporation, limited liability company, partnership, or sole proprietorship through which a licensed real estate broker provides real estate brokerage services under Sec.17-321.
2. "Brokerage Agreement" means a written agreement between a broker and a client to provide real estate brokerage services under a brokerage relationship.
3. "Brokerage relationship" means a relationship under a Brokerage Agreement between a client and a broker who has been authorized by the client to provide real estate brokerage services in a residential real estate transaction.
4. "Client" means a person who has entered into a Brokerage Agreement with a broker under a brokerage relationship.
5. "Dual Agency" means each relationship in which a licensed real estate broker or branch office manager acts as a dual agent.
6. "Seller's agent" means a licensed real estate broker who, in accordance with a Brokerage Agreement, acts as the listing broker for real estate, or a licensed associate real estate broker or licensed real estate salesperson who is affiliated with the listing broker.
7. "Buyer's agent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who, in accordance with a Brokerage Agreement, represents a prospective buyer or lessee in the acquisition of real estate for sale or for lease.
8. "Subagent" means a licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson who:
 - a. is not affiliated with or acting as the listing real estate broker for a property;
 - b. is not a buyer's agent;
 - c. has a brokerage relationship with the seller or lessor; and
 - d. assists a prospective buyer or lessee in the acquisition of real estate for sale or for lease in a nonagency capacity.
9. "Ministerial Act" means an act that
 - a. A licensee performs on behalf of a client before and after the execution of a contract of sale or lease.
 - b. Assists another person to complete or fulfill a contract of sale or lease with the client of the licensee.

- c. Does not involve discretion or the exercise of the licensee's own judgment.

II. GENERALLY APPLICABLE PROVISIONS OF LAW

A. Required contents of a Brokerage Agreement. A Brokerage Agreement shall:

1. Be in writing.
2. Have a definite termination date that is effective automatically without notice from client.
3. State the amount of compensation to be paid to the broker and whether the broker is authorized to receive the compensation from a person other than the client
4. State whether the broker is authorized to cooperate with other brokers and share compensation with the other brokers and the amount of compensation to be shared.
5. Explain the events or conditions that will entitle the broker to a commission or other compensation.
6. Contain a provision for the cancellation of the brokerage relationship by either the client or the broker.
7. The law does not prohibit a broker and a client from entering a Brokerage Agreement that imposes additional duties and obligations upon a licensee in addition to the duties and obligations specified above. (more responsibility and additional confidentiality)

B. Payment of Compensation DOES NOT create a brokerage relationship.

1. The payment or promise of payment of compensation to a licensed real estate broker by a seller, lessor, buyer, or lessee or by a licensee acting for a seller, lessor, buyer or lessee;
 - a. Is NOT determinative of whether a brokerage relationship has been created or exists.
 - b. Does NOT create or determine the existence of a brokerage relationship between a broker and a seller, lessor, buyer, lessee or licensee.

C. Commencement and Expiration of Brokerage Relationship

1. A brokerage relationship commences at the time that a client enters into a Brokerage Agreement and shall continue until:
 - a. The Completion of performance in accordance with the Brokerage Agreement.; or
 - b. The earliest of:
 - i. Any date of expiration as agreed on by the parties in the Brokerage Agreement in writing or in any amendments to the Brokerage Agreement.
 - ii. Any mutually agreed on termination of the brokerage relationship that is in writing.
 - iii. A default by any party under the terms of the Brokerage Agreement; or
 - iv. A termination caused by a client who elects not to consent to dual agency.

D. Duties Owed by a Licensee to Client and Non-Client

1. A licensee shall:
 - a. Act in accordance with the terms of the Brokerage Agreement.
 - b. Promote the interests of the client by:
 - i. Seeking a sale or lease of real estate at a price or rent specified in the Brokerage Agreement or at a price or rent acceptable to the client.
 - ii. Seeking a sale or lease of real estate on terms specified in the Brokerage Agreement or on terms acceptable to the client.
 - iii. Unless otherwise specified in the Brokerage Agreement, presenting in a timely manner, all written offers or counteroffers to and from the client, even if the real estate is subject to an existing contract of sale or lease.

- c. Make all disclosures of material fact as required by law.
 - d. Treat all parties to the transaction honestly and fairly and answer all questions truthfully.
 - e. In a timely manner, account for all trust money received.
 - f. Exercise reasonable care and diligence.
 - g. Comply with all:
 - i. Requirements of the Maryland Real Estate Brokers Act
 - ii. Applicable federal, state, and local fair housing laws and regulations
 - iii. Other applicable laws and regulations.
 - h. Hold all confidential information confidential which includes information that:
 - i. the seller or lessor will accept a price or rent less than the price or rent set forth in the Brokerage Agreement or will accept terms other than those contained in the Brokerage Agreement;
 - ii. the buyer or lessee is willing to pay a price or rent higher than the price or rent the buyer or lessee offered or will accept terms other than those contained in the offer of the buyer or lessee;
 - iii. discloses the motivation of a buyer, lessee, seller, or lessor or the need or urgency of a seller to sell a buyer to buy a lessee to lease or a lessor to lease;
 - iv. discloses any facts that led the seller to sell, the buyer to buy, the lessee to lease, or the lessor to lease; or
 - v. relates to the negotiating strategy of a client.
 - i. Unless the client to whom the confidential information relates, consents, in writing, to a disclosure of that confidential information, a licensee who receives confidential information from or about the licensee's own past or present client or a past or present client of the licensee's broker, MAY NOT disclose that information to:
 - i. Any of the licensee's other clients.
 - ii. Any of the clients of the licensee's broker
 - iii. Any other party.
 - iv. Any licensee acting as an agent for another party
 - v. Any representative of another party
 - vi. The law does not prohibit a broker and a client from entering a Brokerage Agreement that imposes additional duties and obligations upon a licensee in addition to the duties and obligations specified above. (more responsibility and additional confidentiality)
 - 2. The specified duties are in addition to any other duties required of the licensee by law that are not inconsistent with these duties.
 - 3. The duties specified may not be waived or modified.
- E. Duties of Licensee Prior to Entering into a Brokerage Relationship and Following Expiration or Termination of the Brokerage Relationship.**
- 1. A licensee may not disclose confidential information obtained from a prospective client in anticipation of forming a brokerage relationship, unless the prospective client consents in writing to the disclosure.
 - 2. Except as otherwise provided in the Brokerage Agreement, a licensee shall have no further duties or obligations to a client after the termination, expiration, or completion of performance of the brokerage relationship, except to:
 - a. Account for all trust money in the licensee's possession in accordance with this



- title; and
 - b. Except as otherwise provided by law, keep confidential all personal and financial information received from the client during the course of the brokerage relationship; and any other information that the client requests during the brokerage relationship to be kept confidential, unless:
 - i. The client consents, in writing, to the disclosure of the information; or
 - ii. The information becomes public from a source other than the licensee.
- F. Specified Allowable Activities of Licensees**
- 1. A licensee does not breach any duty or obligation to the client by:
 - a. Showing other available properties to prospective buyers or lessees.
 - b. Representing other clients who have or are looking for similar properties for sale or lease.
 - c. Representing other sellers or lessors who have similar properties to that sought by the buyer or lessee.
 - d. Showing the buyer other available properties.
 - e. During an open house, discussing other properties with prospective buyers or lessees, if the licensee has the written consent of the seller or lessor to do so.
 - f. Unless otherwise specified in the Brokerage Agreement, a licensee is not required to seek additional offers to purchase or lease real estate while the real estate is subject to an existing contract of sale or lease.
 - 2. A licensee who performs ministerial acts for a person may not be construed to:
 - a. Violate the licensee's duties to the client, provided that the client has consented in the Brokerage Agreement to the licensee's provision of ministerial acts.
 - b. Form a brokerage relationship between the licensee and the person for whom the ministerial acts are performed.

III. DUAL AGENCY

A. Single Licensee Dual Agency Prohibited

- 1. Law prohibits one (1) licensee from acting as the sole agent on behalf of the seller/lessor and buyer/lessee. Three (3) licensees are required for dual agency:
 - a. Intracompany agent for the Seller
 - b. Intracompany agent for the Buyer
 - c. The Dual Agent
 - i. Dual Agent is Broker or Office Manager designated to represent both parties.

B. Intra Company Agent

- 1. Only an Associate Broker or Salesperson who has been designated by the dual agent, may be an intracompany agent
- 2. The Dual Agent (Broker or designee) MAY NOT also act as an intracompany agent in the same transaction.
- 3. An intracompany agent MAY NOT also act as the Dual Agent in the same transaction.
- 4. Written consent for dual agency on form prepared by the Maryland Real Estate Commission is required. The form shall include an affirmation that identifies the property and the buyer when a contract is entered into.
- 5. When acting as a dual agent in a real estate transaction, the dual agent shall assign a licensed associate real estate broker or licensed real estate salesperson affiliated with the real estate broker to act as the intracompany agent on behalf of the seller or lessor and another licensed associate real estate broker or licensed real estate salesperson affiliated

with the real estate broker to act as the intra- company agent on behalf of the buyer or lessee.

6. An intracompany agent representing the seller or buyer shall provide the same services to the client as an agent for the seller or buyer would provide in a transaction that does not involve dual agency, including advising the client as to price and negotiation strategy, provided that the intracompany agent has made the appropriate disclosures to the client and the client has consented as required by law to dual agency representation.
 7. Except as otherwise required by law and except to the dual agent, an intra-company agent MAY NOT disclose confidential information.
 8. Except as otherwise required by law, the dual agent MAY NOT disclose confidential information to the buyer or seller or the buyer's or seller's intra-company agent in the same real estate transaction.
 9. A real estate broker who offers any financial bonuses to licensees affiliated with the broker for the sale or lease of real property listed with the real estate broker shall provide to each party to a real estate transaction a statement that discloses that financial bonuses are offered.
 10. A cause of action may not arise against a licensee for disclosure of the dual agency relationship as provided by this section.
 11. A dual agent does not terminate any brokerage relationship by making any required disclosure of dual agency.
 12. In any residential transaction a licensee may withdraw from representing a client who refuses to consent to a disclosed dual agency and terminate the brokerage relationship with the client.
 13. The withdrawal may not prejudice the ability of the licensee to continue to represent the other client in the transaction, nor to limit the licensee from representing the client who refused the dual agency in other transactions not involving dual agency.
- C. Dual Agency within a Team**
1. If a broker's designee designates intracompany agents the broker's designee may not be a member of the real estate team.
 2. Buyer and Seller must be notified in writing of the Team Intracompany agency relationship BEFORE a contract is written.

IV. NOTICE TO UNREPRESENTED PARTIES

- A. A licensee who participates in a residential transaction shall utilize the standard disclosure form prepared by the Real Estate Commission.
1. No disclosure required to a person who has entered into a Brokerage Agreement
 2. Distinguish between first contact and first face-to-face contact
 - a. First contact – if not face-to-face, disclose who the licensee represents
 - b. Disclosure made in medium in which contact occurs
 3. Open House – Comply with Disclosure requirements through conspicuous display of notice that licensee present at the house represents the Seller
 4. The Written Disclosure shall explain:
 - a. the differences between a seller's agent, buyer's agent, subagent, dual agent, and intra-company agent;
 - b. the duties of a licensee to exercise reasonable care and diligence and maintain confidentiality;

- c. that regardless of whom a licensee represents in a real estate transaction, the licensee has a duty to treat each party fairly and honestly, promptly present each written offer and counteroffer, respond truthfully to each question, disclose all material facts that are known or should be known relating to a property, and offer each property without discrimination;
- d. that a licensee is qualified to advise only on real estate matters and that legal or tax advice should be obtained from a licensed attorney or accountant;
- e. the need for an agreement with a seller's agent, buyer's agent, or dual agent to be in writing and to include the duties and obligations of the agent, how and by whom the agent will be compensated, and any fee-sharing arrangements with other agents;
- f. the duty of a buyer's agent to assist in the:
 - i. evaluation of a property, including the provision of a market analysis of the property; and
 - ii. preparation of an offer on a property and to negotiate in the best interests of the buyer;
- g. the possibility that a dual agency may arise in a real estate transaction and the options that would become available to the buyer and seller or lessee and lessor; and
- h. that any complaints concerning a licensee may be filed with the Commission.

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