
DEFINING AGENCY



Thank you for the confidence you have shown in Baird & Warner. We appreciate the opportunity to work with you. This brochure is presented to Baird & Warner clients to provide information about agency.

What is Agency?

Agency is a relationship formed when one person represents the interests of another. Under Illinois law, once a real estate licensee and a client have entered into an agency relationship, the real estate licensee owes his/her client certain duties and must act in the client's best interest.

When is an Agency Relationship Formed?

The Illinois license law provides that an agency relationship can be formed in one of two ways:

- 1) By written agreement of the parties, such as the Baird & Warner Exclusive Marketing Agreement and Exclusive Buyer Representation Agreement.
- 2) In the absence of a written agreement. In this case, the law presumes a real estate licensee is the agent of the consumer the agent is working with. No agency relationship is formed when a licensee performs only "ministerial acts" for a consumer, which include acts that are only clerical or informative in nature. If a Baird & Warner broker associate will not be representing you, he or she will present you with a Ministerial Acts Disclosure form, which describes this in greater detail.

What are Agency Duties?

A real estate licensee owes to his/her client the duties of confidentiality, disclosure, loyalty, obedience, accountability, skill and care. A real estate brokerage also owes clients the duties of confidentiality, disclosure and accountability. Your Baird & Warner broker associate will provide you with a detailed explanation of how his/her performance of these duties will help you to achieve your goals in your real estate transaction.

What is Designated Agency?

In 1995, Illinois changed its law governing real estate agency. The legislature repealed the law of sub-agency, in which all licensees represented only sellers and buyers did not have any representation. The legislature replaced that law with one based on "Designated Agency." This law allows real estate brokerage companies, like Baird & Warner, to assign or "designate" its broker associates to represent buyers and sellers. Under Designated Agency, your broker associate is your legal agent – not Baird & Warner and not the other agents associated with the company. Baird & Warner may appoint or "designate" other Baird & Warner broker associates to act as the legal agents of other buyers and sellers.



Baird & Warner believes exclusive representation ensures the best service, which is why both buyers and sellers are requested to sign exclusive brokerage agreements; an Exclusive Marketing Agreement for sellers and an Exclusive Buyer Representation Agreement for buyers.

What is a Buyer's Designated Agent?

A Buyer's Designated Agent is a Baird & Warner broker associate who acts in the best interest of a buyer client, from the beginning of the buyer's search for a home through to the closing. At Baird & Warner, Buyer's Designated Agents are assigned as early as possible to ensure buyers receive the maximum benefit from their broker associates' expertise and advice.

In your Exclusive Buyer Representation Agreement, Baird & Warner designates a broker associate to act as your Buyer's Designated Agent. That broker associate will help you identify specifics about your new home search and will provide you with information about homes listed in a multiple listing service (MLS) that meet your specifications.

In addition, your Buyer's Designated Agent will provide you with financing information, assistance in determining a price range based on competitive market information, negotiate your offer, and provide assistance with the important details during the period between the seller's acceptance of your offer and the day of closing on your new home.

What is a Seller's Designated Agent?

A Seller's Designated Agent is a Baird & Warner broker associate who acts in the best interest of a seller client, beginning when you list your property for sale with Baird & Warner through to the closing. Baird & Warner designates a broker associate to act as your Seller's Designated Agent in your Exclusive Marketing Agreement. Your Seller's Designated Agent will provide you with a competitive market analysis and full-service marketing support using Baird & Warner's exclusive marketing tools. In addition, that agent will negotiate the highest sale price for your home and, once you have signed a sales contract, advise you on the important details leading up to your closing date.

What is Disclosed Dual Agency?

This type of designated agency occurs when one broker associate is designated to represent both the buyer and the seller in the same transaction. Agents must disclose dual agency in writing and must obtain written consent from both the buyer and the seller to this agency relationship. Under the law, dual agents must limit the agency services they can provide to buyers and sellers. They must treat the interests of the buyer and seller equally and not disclose the confidential information of either party to the other. Buyers and sellers must act on their own behalf in negotiating the terms of the contract to purchase. Buyers and sellers must also consent to dual agency a second time, in the contract to purchase.

