

## **DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS**

Before you enter into a discussion with a real estate agent regarding a real estate transaction, you should understand what type of agency relationship you wish to have with that agent.

New York State law requires real estate licensees who are acting as agents of buyers or sellers of property to advise the potential buyers or sellers with whom they work of the nature of their agency relationship and the rights and obligations it creates.

### **SELLER'S OR LANDLORD'S AGENT**

If you are interested in selling or leasing real property, you can engage a real estate agent as a seller's agent. A seller's agent, including a listing agent under a listing agreement with the seller, acts solely on behalf of the seller. You can authorize a seller's or landlord's agent to do other things including hire subagents, broker's agents or work with other agents such as buyer's agents on a cooperative basis. A subagent, is one who has agreed to work with the seller's agent, often through a multiple listing service. A subagent may work in a different real estate office.

A seller's agent has, without limitation, the following fiduciary duties to the seller: reasonable care, undivided loyalty, confidentiality, full disclosure, obedience and a duty to account.

The obligations of a seller's agent are also subject to any specific provisions set forth in an agreement between the agent and the seller.

In dealings with the buyer, a seller's agent should (a) exercise reasonable skill and care in performance of the agent's duties; (b) deal honestly, fairly and in good faith; and (c) disclose all facts known to the agent materially affecting the value or desirability of property, except as otherwise provided by law.

### **BUYER'S OR TENANT'S AGENT**

If you are interested in buying or leasing real property, you can engage a real estate agent as a buyer's or tenant's agent. A buyer's agent acts solely on behalf of the buyer. You can authorize a buyer's agent to do other things including hire subagents, broker's agents or work with other agents such as seller's agents on a cooperative basis.

A buyer's agent has, without limitation, the following fiduciary duties to the buyer: reasonable care, undivided loyalty, confidentiality, full disclosure, obedience and a duty to account.

The obligations of a buyer's agent are also subject to any specific provisions set forth in an agreement between the agent and the buyer.

In dealings with the seller, a buyer's agent should (a) exercise reasonable skill and care in performance of the agent's duties; (b) deal honestly, fairly and in good faith; and (c) disclose all facts known to the agent materially affecting the buyer's ability and/or willingness to perform a contract to acquire seller's property that are not inconsistent with the agent's fiduciary duties to the buyer.

### **BROKER'S AGENTS**

As part of your negotiations with a real estate agent, you may authorize your agent to engage other agents whether you are a buyer/tenant or seller/landlord. As a general rule, those agents owe fiduciary duties to your agent and to you. You are not vicariously liable for their conduct.

### **AGENT REPRESENTING BOTH SELLER AND BUYER**

A real estate agent acting directly or through an associated licensee, can be the agent of both the seller/landlord and the buyer/tenant in a transaction, but only with the knowledge and informed consent, in writing, of both the seller/landlord and the buyer/tenant.

In such a dual agency situation, the agent will not be able to provide the full range of fiduciary duties to the buyer/tenant and seller/landlord.

The obligations of an agent are also subject to any specific provisions set forth in an agreement between the agent and the buyer/tenant and seller/landlord.

An agent acting as a dual agent must explain carefully to both the buyer/tenant and seller/landlord that the agent is acting for the other party as well. The agent should also explain the possible effects of dual representation, including that by consenting to the dual agency relationship the buyer/tenant and seller/landlord are giving up their right to undivided loyalty.

**A BUYER/TENANT OR SELLER/LANDLORD SHOULD CAREFULLY CONSIDER THE POSSIBLE CONSEQUENCES OF A DUAL AGENCY RELATIONSHIP BEFORE AGREEING TO SUCH REPRESENTATION.**

### **GENERAL CONSIDERATIONS**

You should carefully read all agreements to ensure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal, tax or other advice is desired, consult a competent professional in that field.

Throughout the transaction you may receive more than one disclosure form. The law requires each agent assisting in the transaction to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

**ACKNOWLEDGMENT OF PROSPECTIVE BUYER/TENANT**

**ACKNOWLEDGMENT OF PROSPECTIVE SELLER/LANDLORD**

- (1) I have received and read this disclosure notice.
- (2) I understand that a seller's/landlord's agent, including a listing agent, is the agent of the seller/landlord exclusively, unless the seller/landlord and buyer/tenant otherwise agree.
- (3) I understand that subagents, including subagents participating in a multiple listing service, are agents of the seller/landlord exclusively.
- (4) I understand that I may engage my own agent to be my buyer's/tenant's broker.
- (5) I understand that the agent presenting this form to me,

\_\_\_\_\_ of  
 (name of licensee)  
 \_\_\_\_\_ is  
 (name of firm)

(check applicable relationship)  
 \_\_\_ an agent of the seller/landlord  
 \_\_\_ my agent as a buyer's/tenant's agent

Dated:  
 Buyer/Tenant:

Dated:  
 Buyer/Tenant:

- (1) I have received and read this disclosure notice.
- (2) I understand that a seller's/landlord's agent, including a listing agent, is the agent of the seller/landlord exclusively, unless the seller/landlord and buyer/tenant otherwise agree.
- (3) I understand that subagents, including subagents participating in a multiple listing service, are agents of the seller/landlord exclusively.
- (4) I understand that a buyer's/tenant's agent is the agent of the buyer/tenant exclusively.
- (5) I understand that the agent presenting this form to me,

\_\_\_\_\_ of  
 (name of licensee)  
 \_\_\_\_\_ is  
 (name of firm)

(check applicable relationship)  
 \_\_\_ my agent as a seller's/landlord's agent  
 \_\_\_ an agent of the buyer/tenant

Dated:  
 Seller/Landlord:

Dated:  
 Seller/Landlord:

**ACKNOWLEDGMENT OF PROSPECTIVE BUYER/TENANT AND SELLER/LANDLORD TO DUAL AGENCY**

- (1) I have received and read this disclosure notice.
- (2) I understand that a dual agent will be working for both the seller/landlord and buyer/tenant.
- (3) I understand that I may engage my own agent as a seller's/landlord's agent or a buyer's/tenant's agent.
- (4) I understand that I am giving up my right to the agent's undivided loyalty.
- (5) I have carefully considered the possible consequences of a dual agency relationship.
- (6) I understand that the agent presenting this form to me,

\_\_\_\_\_ of  
 (name of licensee)  
 \_\_\_\_\_ is  
 (name of firm)

a dual agent working for both the buyer/tenant and seller/landlord, acting as such with the consent of both the buyer/tenant and seller/landlord and following full disclosure to the buyer/tenant and seller/landlord.

Dated:  
 Buyer/Tenant:

Dated:  
 Buyer/Tenant:

Dated:  
 Seller/Landlord:

Dated:  
 Seller/Landlord:

**ACKNOWLEDGMENT OF THE PARTIES TO THE CONTRACT**

- (1) I have received, read and understand this disclosure notice.
- (2) I understand that \_\_\_\_\_ of  
 (name of real estate licensee)  
 \_\_\_\_\_ is  
 (name of firm)

(Check applicable relationship) \_\_\_ an agent of the seller/landlord  
 \_\_\_ an agent of the buyer/tenant  
 \_\_\_ a dual agent working for both the buyer/tenant and seller/landlord, acting as such with the consent of both buyer/tenant and seller/landlord and following full disclosure to the buyer/tenant and seller/landlord.

I also understand that \_\_\_\_\_ of  
 (name of real estate licensee)  
 \_\_\_\_\_ is  
 (name of firm)

(Check applicable relationship) \_\_\_ an agent of the seller/landlord  
 \_\_\_ an agent of the buyer/tenant  
 \_\_\_ a dual agent working for both the buyer/tenant and seller/landlord, acting as such with the consent of both buyer/tenant and seller/landlord and following full disclosure to the buyer/tenant and seller/landlord.

Dated:  
 Buyer/Tenant:

Dated:  
 Buyer/Tenant:

Dated:  
 Seller/Landlord:

Dated:  
 Seller/Landlord: