

WHAT YOU SHOULD KNOW ABOUT...

(MARYLAND)



- Buyer Agency
- Seller Agency
- Disclosed Dual Agency
- Intra-company Agency

TRADITIONAL AGENCY

In real estate transactions, an agency is formed between the Real Estate Broker and the client. The client, either a Buyer or a Seller, generally works with one agent who is associated with the Broker.

The agency relationship is based on one person representing the interests of another person. Real estate agents are licensed by the State to represent a person for the sale or leasing of a property. The responsibilities of the agent are defined by the state law relating to agents, the REALTORS® Code of Ethics and general principles of agency law.



The agent and the client form an agency relationship, which is based on trust. The agent owes duties to the client in accordance with state law.

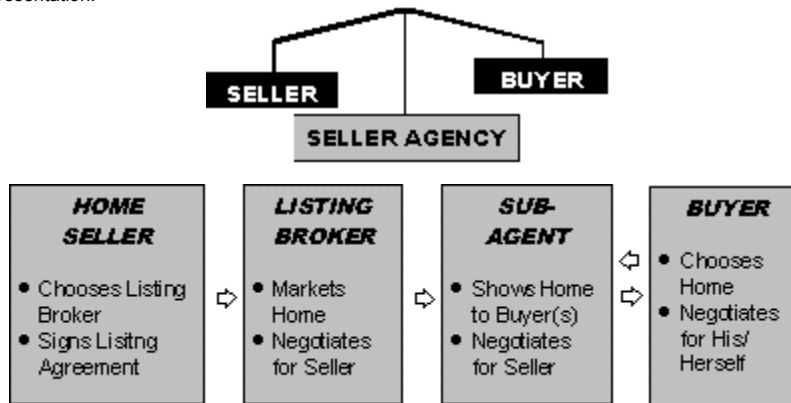
The courts strictly enforce the agency duties to make sure the agent keeps the client's interests above anyone else's interests. The courts also require that the real estate agent be fair and honest to all parties in the transaction.

The source of compensation does not, in and of itself, determine agency. Compensation can be paid by the Buyer, Seller or both. However, there must be disclosure and informed consent as to who is paying, in writing in advance.

SELLER AGENCY

Historically throughout the country, real estate agents represented *only* the Seller in real estate transactions. That meant that all the agency duties were owed to the Seller, even if the agent was also working with the Buyer.

These relationships create a system called sub-agency. The real estate company that lists the property is called the listing Broker. The real estate company working with the Buyer is called the sub-agent since that company actually is working for the listing Broker. Although the Buyer receives services from a real estate agent, the Buyer in this arrangement has no true agency representation.



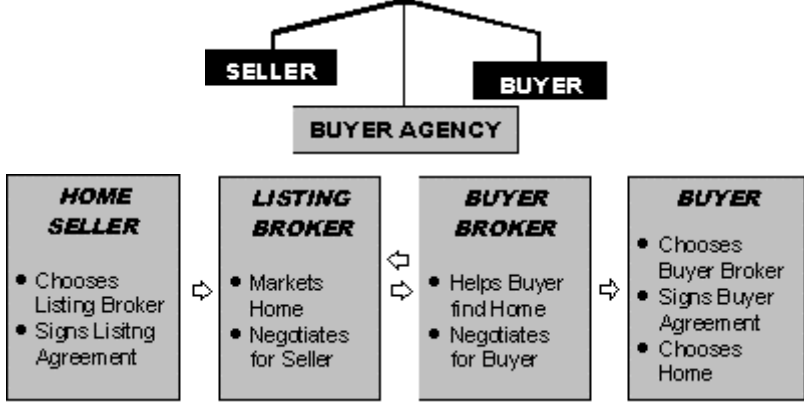
Agency duties are owed directly to the Seller in all transactions where there is no Buyer Agent. This is true of most real estate companies in the United States. Therefore, Buyers must be careful not to divulge any information that they do not want the Seller to know, e.g. the highest price they will pay for the property.

Traditional Seller Agency has worked for many years. The Buyer, knowing that the agent represents the Seller, should not rely on the agent for assistance in determining an offering price, or for any other advice that is not in the Seller's best interest.

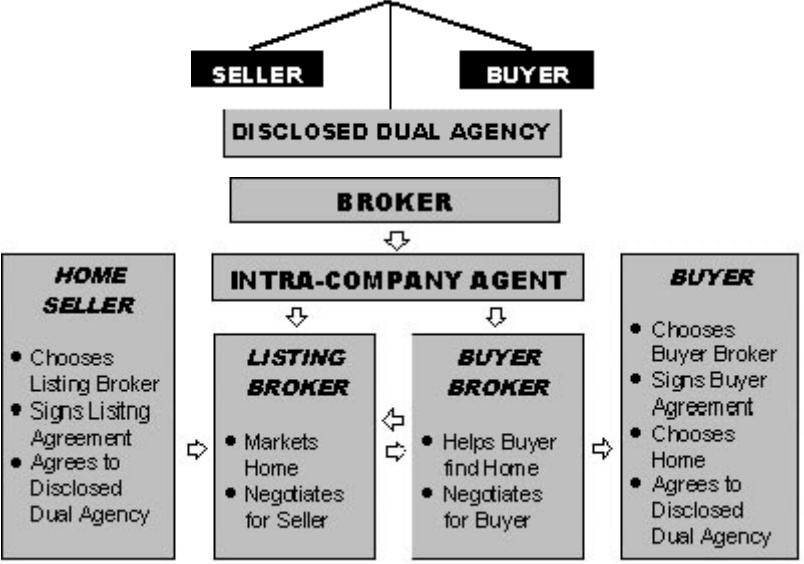
BUYER AGENCY

Today, Buyers realize that real estate agents possess considerable knowledge that could assist them in the home purchase process. Consequently, Buyers want the same representation that Sellers receive. In many areas of the country Buyer Agency has become as traditional Seller Agency/Sub-Agency.

When an agent represents a Buyer, the agent owes all duties to the Buyer, not the Seller. The Buyer is free to discuss the value of properties, personal finances and negotiating strategies with the agent. In addition, a Buyer's Agent gives opinions concerning the condition of the property, the effect of improvements, and a variety of information which a Seller's Agent cannot provide.



A Buyer's Agent makes every reasonable effort to locate the property described by the Buyer, including search for homes that may be available for sale although they are not listed with a real estate company. Before Buyer Agency, agents assisted Buyers in locating the right property, but they had limitations since they legally represented the Seller. Now Buyers have an advocate who can negotiate for them, help them make decisions and advise them throughout the entire homebuying process.



Coldwell Banker Residential Brokerage, a licensed Real Estate Broker, lists properties for sale, thereby forming an agency relationship with the Seller. A Seller's agent is obligated to put the Seller's interests first.

Coldwell Banker Residential Brokerage may also form agency relationships with Buyers. The Buyer's agent is obligated to put the Buyer's interests first. One example of Buyer agency is an agent working with a current or former client, friend or relative. It is easy to understand how such a Buyer would expect the agent to give advice and put his/her interest first. Under Maryland law there is a presumption that Coldwell Banker Residential Brokerage represents the Buyer. The Buyer, however, can decline such representation. When the buyer begins negotiations for the purchase of a property the agency representation agreement must be in writing.

Should a Buyer client be interested in purchasing a property listed with Coldwell Banker Residential Brokerage, a dual agency is created. Buyer and Seller must both consent in advance to the possible formation of dual agency. Technically, dual agency arises when Coldwell Banker Residential Brokerage has a relationship with two clients who have different goals in the same transaction.

When dual agency is formed, each client must consent in writing to such dual agency. State law prohibits one individual agent from simultaneously representing both buyer and seller in a consensual dual agency arrangement. Thus another Coldwell Banker Residential Brokerage agent will be designated to represent either the Buyer or Seller. These agents become Intra-Company agents, not dual agents. Only the broker is a dual agent.

If dual agency arises, Maryland law provides that the agents not disclose any confidential information that would create a negotiating advantage or disadvantage for either client. The agents, however, must represent the exclusive interest of Buyer and Seller.

Dual agency sometimes happens. When it does the agency relationship is modified with the consent of the clients and everyone's goal remains the same – to achieve a sale.
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