



## Who Dual Agents Really Represent!

***ACTUALLY, THERE'S LITTLE "DUAL" ABOUT IT. When you consider who the REALTOR really represents, the term's inaccuracies quickly become clear; A DUAL AGENT'S PRIMARY FIDUCIARY RESPONSIBILITY IS TO THE SELLER!***

To see how real estate representation really works, take a look at the three type of agencies. (Actually, the Minnesota Association of REALTORS says there are five "options for relationship" between agent and home buyer. That's according to its rundown of Agency Law Governmental Regulations.) But, from your perspective as a home buyer, it boils down to the following three:

### **SELLER AGENCY:**

**THAT'S SIMPLE ENOUGH.** These agents represent sellers, period, and they make no secret of it. It's hard to imagine home buyers winding up with a seller agent by accident. If you were seeking representation when buying a home and saw "seller agency" on a firm's door, you'd keep looking.

But it gets trickier, since most real estate agencies fall into the next category.

### **DUAL AGENCY:**

**If you wanted, you could break this type of real estate representation into three separate subcategories.** (That's what Minnesota Agency Law Governmental Regulations does, remember, to arrive at its five options for relationship.)

**There's plain old dual agency.** That's where either a single agent—or two agents from the same firm—try to represent the interests of both buyer and seller. And "try" is the right word, since even the best-intentioned dual agent would have to violate the law and ethics codes to give you the representation you deserved.

**There's also something called a "subagent."** These agents will work with buyers while openly representing sellers. The fact that they're open about it is good; it gives you fair warning to run the other way.

**A "facilitator"** represents both buyer and seller, but refrains from representing either in a "fiduciary capacity." This subtype of dual agency may reduce some the risks to the homebuyer, but it also eliminates the benefits of rigorous fiduciary responsibility.

That leaves the next relationship as the *only* option that makes sense for home buyers.

## **BUYER AGENCY**

**As the Minnesota Agency Law Governmental Regulations succinctly puts it, a buyer's agent is "acting for the buyer only."** The clarity of that clause tells makes it clear to home buyers that an exclusive buyer agent's loyalties lie with them. And, it tells you everything you need to know about what kind of representation to seek.

**Even if your REALTOR checks off "buyer's agent" on the form, you can't be certain he or she is an *exclusive* buyer agent (EBA).** Currently, Minnesota law permits a real estate agent to attempt to offer this type of relationship even if they, or other agents in their firm, list homes. If you reason it out, an agency that works with sellers to list homes can't really be called "exclusive." And, not being exclusive agents essentially makes them dual agents.

**Yes, home buyers would be well served if Minnesota state law included "*Exclusive Buyer's Agent*" as one of the legally defined options for relationships between buyers and agents.** Such a category would clear up all ambiguity and make it easy for home buyers to get the benefits of working with an EBA. And, if current trends continue, such a legally defined category one day may be added.

Until then, you can seek out the few real estate agents who *do* work exclusively with home buyers. Even without a legal requirement, they designate themselves as exclusive buyer agents and avoid any trappings of dual agency. **Only with an EBA can home buyers be certain that their agent's sole fiduciary responsibility is to *them*.**

Most states have a handful of exclusive buyer agencies. (At last count, Minnesota had less than four real estate firms that qualified as exclusive buyer agencies.) Since there are so few, you'll have to seek out an exclusive buyer agent. And, as you search, knowing how to spot a dual agent will help you avoid working with one.