

**OREGON REAL ESTATE AGENCY
DISCLOSURE PAMPHLET
(ORS 696.820 and OAR 863-015-215(4))**

This pamphlet describes agency relationships and the duties and responsibilities of real estate licensees in Oregon. This pamphlet is informational only and neither the pamphlet nor its delivery to you may be construed to be evidence of intent to create an agency relationship.

Real Estate Agency Relationships

An "agency" relationship is a voluntary legal relationship in which a real estate licensee (the "agent") agrees to act on behalf of a buyer or a seller (the "client") in a real estate transaction. Oregon law provides for three types of agency relationships between real estate agents and their clients:

Seller's Agent – Represents the seller only;

Buyer's Agent – Represents the buyer only;

Disclosed Limited Agent – Represents both the buyer and seller, or multiple buyers who want to purchase the same property. This can be done only with the written permission of both clients.

The actual agency relationships between the seller, buyer and their agents in a real estate transaction must be acknowledged at the time an offer to purchase is made. Please read this pamphlet carefully before entering into an agency relationship with a real estate agent.

**Duties and Responsibilities of an Agent
Who Represents Only the Seller or Only the Buyer**

Under a written listing agreement to sell property, an agent represents only the seller unless the seller agrees in writing to allow the agent to also represent the buyer. An agent who agrees to represent a buyer acts only as the buyer's agent unless the buyer agrees in writing to allow the agent to also represent the seller. An agent who represents only the seller or only the buyer owes the following affirmative duties to their client, other parties and their agents involved in a real estate transaction:

1. To exercise reasonable care and diligence;
2. To deal honestly and in good faith;
3. To present all written offers, notices and other communications in a timely manner whether or not the seller's property is subject to a contract for sale or the buyer is already a party to a contract to purchase;
4. To disclose material facts known by the agent and not apparent or readily ascertainable to a party;
5. To account in a timely manner for money and property received from or on behalf of the client;
6. To be loyal to their client by not taking action that is adverse or detrimental to the client's interest in a transaction;
7. To disclose in a timely manner to the client any conflict of interest, existing or contemplated;
8. To advise the client to seek expert advice on matters related to the transactions that are beyond the agent's expertise;
9. To maintain confidential information from or about the client except under subpoena or court order, even after termination of the agency relationship; and
10. When representing a seller, to make a continuous, good faith effort to find a buyer for the property, except that a seller's agent is not required to seek additional offers to purchase the property while the property is subject to a contract for sale. When representing a buyer, to make a continuous, good faith effort to find property for the buyer, except that a buyer's agent is not required to seek additional properties for the buyer while the buyer is

subject to a contract for purchase or to show properties for which there is no written agreement to pay compensation to the buyer's agent.

None of these affirmative duties of an agent may be waived, except #10, which can only be waived by written agreement between client and agent.

Under Oregon law, a seller's agent may show properties owned by another seller to a prospective buyer and may list competing properties for sale without breaching any affirmative duty to the seller. Similarly, a buyer's agent may show properties in which the buyer is interested to other prospective buyers without breaching any affirmative duty to the buyer.

Unless agreed to in writing, an agent has no duty to investigate matters that are outside the scope of the agent's expertise.

Duties and Responsibilities of an Agent Who Represents More than One Client in a Transaction

One agent may represent both the seller and the buyer in the same transaction, or multiple buyers who want to purchase the same property only under a written "Disclosed Limited Agency" agreement, signed by the seller, buyer(s) and their agent.

When different agents associated with the same real estate firm establish agency relationships with different parties to the same transaction, only the principal broker (the broker who supervises the other agents) will act as a Disclosed Limited Agent for both the buyer and seller. The other agents continue to represent only the party with whom the agent already has an established agency relationship unless all parties agree otherwise in writing. The supervising principal broker and the agents representing either the seller or the buyer have the following duties to their clients:

1. To disclose a conflict of interest in writing to all parties;
2. To take no action that is adverse or detrimental to either party's interest in the transaction; and
3. To obey the lawful instruction of both parties.

An agent acting under a Disclosed Limited Agency agreement has the same duties to the client as when representing only a seller or only a buyer, except that the agent may not, without written permission, disclose any of the following:

1. That the seller will accept a lower price or less favorable terms than the listing price or terms;
2. That the buyer will pay a greater price or more favorable terms than the offering price or terms; or
3. In transactions involving one-to-four residential units only, information regarding the real property transaction including, but not limited to, price, terms, financial qualifications or motivation to buy or sell.

No matter whom they represent, an agent must disclose information the agent knows or should know that failure to disclose would constitute fraudulent misrepresentation. Unless agreed to in writing, an agent acting under a Disclosed Limited Agency agreement has no duty to investigate matters that are outside the scope of the agent's expertise.

You are encouraged to discuss the above information with the agent delivering this pamphlet to you. If you intend for that agent, or any other Oregon real estate agent, to represent you as a Seller's Agent, Buyer's Agent, or Disclosed Limited Agent, you should have a specific discussion with him/her about the nature and scope of the agency relationship. Whether you are a buyer or seller, you cannot make a licensee your agent without their knowledge and consent, and an agent cannot make you their client without your knowledge and consent.

SALE/LEASE DISCLOSURES

There are many laws that may have an impact on (a) your decision to sell, buy, or lease property; (b) the documents required or beneficial for your transaction; and (c) your ownership or tenancy of the property. We, as real estate brokers, are not attorneys, engineers, surveyors, environmental consultants, architects, appraisers, or tax advisors. We recommend that you seek the advice of other advisors to assist you with your real estate transaction.

Examples of some of the laws to consider are:

- A. The Americans with Disabilities Act: In general, the ADA requires employers and owners of property that is open to the public to make their property and business establishments accessible to persons with disabilities. The ADA may require modifications to the property that you are considering buying or leasing.
- B. Tax Laws: Almost all real estate transactions have tax consequences to the parties involved. There is more than one way to structure a sale or lease transaction, each of which may have different tax consequences. You should obtain competent tax advice, especially if you want to defer the gain on the sale of property through a tax-deferred exchange.
- C. Environmental Laws: Various laws require removal and clean up of hazardous materials on, in, around, and under property. The responsibility for cleaning up hazardous materials may fall on owners or tenants even if those owners or tenants were not the parties who actually deposited those materials on the property. Various undesirable materials such as mold, asbestos, and contaminants may be present that may cause liability to owners and tenants. Inspections by experts are necessary to detect whether hazardous or undesirable materials are present. An attorney can advise you on the impact of laws if those materials are found.
- D. Zoning Laws, Building Codes, Etc.: You should determine whether the use (or proposed use) of the property meets applicable zoning codes and that the improvements on the property comply with applicable building codes. An architect or other design professional can help you with that analysis.

These are only examples of some of the laws that may affect your transaction. We will use our best skills as real estate brokers to assist you. We recommend that you consult with other competent advisors as well to help you analyze the condition of the property, the value of the property, and the impact of laws on the property and your transaction in selling, buying, or leasing property.