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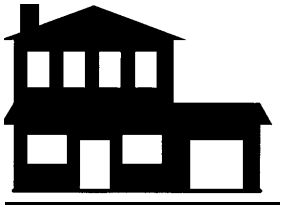

HOME OWNERSHIP FACT SHEETS

A Broker, A Realtor...Who Are They?

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People would not hesitate to question the qualifications or methods of a carpenter, plumber, mason, or landscaper, but they are often reluctant to question the expertise of a real estate agent, whose work is mostly done on paper and not on the house. Let's get familiar with the job of these professionals.

A **broker** is a real estate person who is licensed by the state to practice real estate.

The broker generally earns a portion of the commission on the sale and is employed by the seller unless you arrange to hire a "buyer's broker" to whom you pay a commission. The agent who lists the house or sells the house also gets a portion of the commission made on the house.

A **realtor** is a real estate professional, or real estate agent, or sales agent who must also have a state license, but who works under the supervision of a licensed broker.

A real estate agent brings together people who have a place to sell with people who are looking to buy. Once you decide on this person, always remember whose side he or she is on. The broker has a financial, legal, and moral responsibility to the seller.

QUESTIONS TO ASK A PROSPECTIVE AGENT/BROKER:

* Are you a licensed broker or sales agent, and for how long?
* Are you a member of the National Association of Realtors?
* Do you work full or part time in real estate?
* How long have you been selling real estate in this area?
* Will you give me several references of recent clients and customers?
* Are any of the houses you are showing me your own listings? If yes, can we negotiate the commission if I buy one of yours? Remember, though, that agents normally cannot cut commissions.

An issue is to whom the agent owes loyalty in a real estate transaction. Centuries of common law--the legal rules that courts hand down, case by case--have set down an ambiguous rule: agents own undivided allegiance to their client whether the client is a buyer or seller.

Law firms, for example, would not represent different parties in the same financial transaction because the conflicts of interest between the buyer (who seeks the lowest price

possible) and the seller (who seeks the highest price possible) are so fundamentally incompatible as to make it impossible to represent both sides fairly. Throw in the fees for "representing" both sides at once and the potential for unfair dealing intensifies. Be aware and wary of dual agents, or double agents, who try to represent both sides.

HOW TO PROTECT YOURSELF:

In identifying who the agent is working for, you are protecting yourself. Here are some tips that can protect you in the relationship with an agent that is working for the seller:

- A buyer should not reveal information that he or she might otherwise wish to keep confidential because such information would help brokers working for the seller in obtaining the highest price for a home.
- A buyer might not assume that the broker or agent will use his or her expertise to discover defects in a house, when without a contractual agency relationship, the broker may feel he or she has no duty to do so.

By common law, agency relationships are created when you ask another person to act on your behalf and the person agrees to do so. Special words, writing, or compensation are not needed for this informal agreement to be effective. The four most important fiduciary duties required of agents are:

- To use all special knowledge to always act solely in the best interest of the client (undivided loyalty).
- To follow instructions and stay within the scope of delegated authority (obedience).
- To disclose all information about the transaction that might affect the client's best interest (full disclosure).
- To keep client confidences even after the agency relationship ends (confidentiality).

For buyers moving into a new community, the real estate agent can be very influential in the initial housing and related decisions made by the family. Therefore, it is important to choose a realtor carefully and seek other sources of information about the community before making the final decision regarding a house.

You will be saving time in the long run if you find an agent you can trust, can really communicate with, and enjoy being with. You will probably be spending a good amount of time with this person. It will be a quicker and smoother process if you choose one and stick with them, rather than moving from agent to agent. The agent's knowledge of the market, ability to protect your interests, skill in concluding the sale, and track record should all be important considerations in finding the right agent.

WHERE TO BEGIN?

You should begin by asking yourself whether you need an agent at all. If you are a buyer in a tight market, you probably need an agent. Otherwise houses will come and go on the market and you will never hear about them. If you are a seller in a "sellers" market, you may need an agent or title company to do all the paperwork. If you cannot take care of yourself in a business transaction then it is money well spent to have a local agent of your own.

Most of us are not experts in real estate issues, even if we are experts in other areas. Not everyone needs an agent to help with the sale or purchase or rent property. However, if you do need an agent, insist on loyalty from that agent.

Adapted from *Choosing Home Buying Professionals*, Cooperative Extension Services, University of Arkansas, United States Department of Agriculture, and County Governments Cooperating.
Written by Eleanor J. Walls and Wanda W. Shelby; and *Real Estate Agents: Get Your Money's Worth*, by Maureen F. Glasheen.

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