

# FACILITATION SERVICES – ACTING AS A TRANSACTION FACILITATOR REPRESENTING BOTH BUYER AND SELLER

**Purpose:** This bulletin explains facilitation services a real estate brokerage can provide when representing both a buyer and seller in the same transaction.

The term “transaction facilitator” refers to:

- a) one or more real estate professionals at a common law brokerage when the brokerage represents both the buyer and seller in the same transaction; or
- b) a real estate professional at a designated agency brokerage who represents both the buyer and seller in the same transaction.

With the buyer and seller permission, transaction brokerage allows real estate professionals to act as a transaction facilitator to work with buyer and seller clients in the same transaction. A transaction facilitator treats the buyer and seller in an even-handed, objective and impartial manner. A transaction facilitator does not give confidential advice, advocate on behalf of either the buyer or the seller, or use discretion or judgment that benefits one client over the other.

## INFORMATION BULLETINS

Last Revised April  
2014

© 2014 RECA

### Even handed, objective and impartial

If you are a transaction facilitator, consider the following questions to ensure you remain even-handed, objective, and impartial:

- did I give the same information and advice to both clients?
- did I treat all clients honestly and with reasonable care and skill?
- was I impartial or did I show favour to one person over the other?
- did I make decisions or use judgment for one client over the other?
- did I promote the interest of one client over the other?
- did I give confidential advice to one person that I did not give to the other?
- would an outside observer believe I remained neutral throughout the process?

### Acting as a transaction facilitator

The buyer and seller must agree in writing to the provision of facilitation services. “Representing the Buyer and Seller” is the name of the agreement.

## Providing information in advance of any conflicts

Real estate professionals are responsible for preparing their clients for the transaction process. They need to provide clients with information on the practical aspects of the purchase process in advance of becoming a transaction facilitator. Prior to any representational conflict existing, real estate professionals should provide clients with information that will prepare them for the possibility of transaction brokerage. Should a transaction brokerage situation arise, you will refer the client back to the information previously given. The facilitator asks questions, communicates with both parties and gives information on issues of mutual interest.

In providing facilitation services, the facilitator may:

- assist the buyer and seller to negotiate a mutually acceptable agreement
- give real estate statistics, as comparable sold and active property data
- give standard real estate forms
- prepare all documents as instructed by the client(s)
- give real estate service providers without recommending any specific one
- present all offers and counter offers in a timely manner
- convey information to one party at the request of the other
- keep all parties informed as to the progress of the negotiations
- disclose all material latent defects to the buyer(s)
- disclose the buyer's financial ability to complete the transaction to the seller(s)
- comply with the provisions of the *Real Estate Act* and Rules

INFORMATION  
BULLETINS

Last Revised April  
2014

© 2014 RECA

## Refer clients to previous information

You may give public information in transaction brokerage to both parties. Examples may include the title and tax information, blank real estate forms, Property Inspection Request Form and any general information that would be helpful to the buyer.

## Refer Clients to Current Information

You must give the following information or documents to the parties:

- **Material latent defects:** All transaction facilitators must disclose to the buyer any known material latent defects about the property.
- **Buyer's ability to complete the transaction:** All transaction facilitators must disclose to the seller any known information about the buyer's ability to purchase the property.
- **Marketing information:** Transaction facilitators must give all marketing information about the property to the buyer. For example, listing information, feature sheets, and websites.

A transaction facilitator must give a buyer any property information provided by the seller. Some examples include a water well quality and quantity report, septic tank report, Real Property Report and copy of title.

### Provide clients with further information

Other available information may be important to your client's decision to buy or sell property. This is not an inclusive list. Some examples include:

- **Public domain information:** The public domain has a variety of general and specific property data that may be helpful to clients. SPIN ([www.spin.gov.ab.ca](http://www.spin.gov.ab.ca)) is an online source of various Alberta Registry documents, such as titles, condominium documents, surveys, etc. Municipalities often have community data, land use districts descriptions, building permit requirements, as well as individual property taxation and assessment.
- **Provide information sources:** Your clients may have specific needs, such as schooling, walkability, neighbourhood demographics and services. Clients can investigate themselves or you may assist them.
- **Provide list of experts:** Your clients may require assistance to determine the condition of the property or improvements they wish to make. You may give a list of multiple professionals. The client should choose the professional.

### Ask clients probing questions

To help a client write an offer or counter offer, the transaction facilitator can ask probing questions to determine the terms and conditions the clients want to include. Probing questions make clients think about various issues and their options. A transaction facilitator can give general information and alternatives for each issue but must not advise.

### Examples

#### 1. Property inspection of a residential property

If you give and discuss the *Property Inspection Request Form* to the buyer before a transaction brokerage situation happens, you can refer the buyer to the form when you are in transaction brokerage. You may ask if they understand the information and answer any general questions concerning the available inspections and reports. The transaction facilitator can outline the advantages and disadvantages associated with including a property inspection condition. You may ask the buyer if they want to include any inspections and draft the offer according to the buyer's instructions.

2. The buyer chose to have their offer subject to the sale of their home and did not include a *Sale of Buyer's Home Schedule*. Taking the seller's home off the market until the buyer's home sells may not be in the best interest of the seller. How does the transaction facilitator assist the seller in determining if they should accept this condition and not give advice to the seller?

If you give and discuss the *Sale of Buyer's Home Schedule* to the seller at the time of listing the property, you can refer the seller to the form when you are in transaction brokerage.

A transaction facilitator can ask questions of the seller to determine how the seller feels about that condition.

*Does the seller understand that their home will come off the market?*

*Does the seller know they can only entertain back-up offers?*

*Is the seller aware of other options to this condition?*

The transaction facilitator can answer any questions from the seller outlining the advantages and disadvantages of any options for the sale of the buyer's home. You may ask the seller what they want to do and follow the seller's instructions.

## Related information

### Legislation

- *Real Estate Act* Rules - sections 1(1)(n.1), s.1(1)(gg.1)(gg.2)(gg.3), s.41(f), s.55(2), s.59, s.59.1

### Guides

- Transaction Brokerage Practice Guide
- Real Estate Update Course 2012

### Information bulletins

- Conflict – Representing the Seller and Buyer.
- Transaction Brokerage – Parties do not Agree
- Transaction Brokerage – Not Always Appropriate