

SERVICE AGREEMENTS – REAL ESTATE BROKERAGE

Purpose: This bulletin explains what you must include in a written service agreement and when you must use them.

This bulletin applies to all real estate professionals.

Brokerage agreements are service agreements

The *Real Estate Act* (Act) defines service agreement as:

“a contract that establishes the relationship between the parties as to the services and obligations to be performed by an industry member”

A service agreement is a contract between a brokerage and a client. The client agrees to hire the brokerage to act on their behalf in a real estate transaction. The brokerage agrees to deliver the services specific to the contract and fulfill various obligations to the client.

Only a licensed real estate brokerage can enter into a service agreement with a client. Industry professionals enter into service agreements on behalf of their brokerage and represent the brokerage will deliver the services the brokerage and client agrees.

For sellers: the service agreement is a seller representation agreement (also referred to as a “listing agreement”).

For buyers: the service agreement is a buyer representation agreement.

When are service agreements required?

Effective July 1, 2014, an industry professional trading in residential real estate and property management, who wishes to enter into a client relationship, must do so in writing. Written service agreements were mandatory previously for an exclusive right to represent a client. For all other specialty areas of real estate, a written service agreement remains mandatory only for an exclusive right to represent. The best practice for real estate professionals is to document the relationship through a written agreement or a written acknowledgment form.

A written service agreement clearly defines:

- the relationship between the parties
- the services the brokerage will deliver
- the responsibilities and obligations of the parties
- consent for collection, use and distribution of client’s personal information

- the amount or method to calculate the brokerage fees
- how the industry professional will receive any fees

Written service agreements – other requirements

The *Real Estate Act* Rules require written service agreements to:

- include the names and signatures of the parties to the agreement
- clearly state all terms and conditions
- if applicable, include the address or legal description of the property affected by the agreement
- if applicable, include the effective date
- include the agreement duration
- include provisions for agreement termination
- provide that any amendment or addition to the agreement shall be in writing and signed by the relevant parties

Upon signing, industry professionals must immediately provide their clients with true copies of service agreements, and any amendments or additions.

The *Real Estate Act* Rules mandate the use of mandatory content for residential real estate relationship agreements. Real estate professionals must ensure the contracts they use meet these requirements.

Practice tip

Written service agreements have many practical advantages. By documenting an arrangement with a client, an industry professional clearly outlines their role and the services they will deliver to the client. This reduces the likelihood of disputes and gives certainty for both the client and the industry professional. Written service agreements clarify expectations and promote positive relationships with clients.

There is greater certainty with the use of a written service agreement as to what the parties agree. This is critical when a brokerage seeks to collect fees the client owes. You may only commence legal action to collect these fees if the parties agree to the fees in writing.

Related information

Legislation

- *Real Estate Act* - sections 1(1)(w.1), s.18(2), s.22(a), s.23, s.24
- *Real Estate Act* Rules – sections 1(1)(g), s.43, s.56, s.60.1, Schedule 1

Information bulletins

- Client – Real Estate Brokerage
- Customer – Real Estate Brokerage