

## UNREPRESENTED SELLERS – WHAT THEY NEED TO KNOW

**Purpose:** To assist mere posting sellers to understand the issues when dealing with a buyer's representative.

**This bulletin applies to all unrepresented sellers.**

It is very important for mere posting sellers (Seller) to ensure they clearly understand the role of the buyer's representative. The Seller must know the services they will receive from the buyer's brokerage or just as important, what services they will not receive from the buyer's brokerage.

### What you need to know

- the potential buyer is using the services of a real estate professional
- the real estate professional is the agent of the buyer and must act in the buyer's best interest
- the buyer's representative does not represent you
- the buyer's representative may provide administrative services to facilitate the sale of your home. They may act as a scribe for you to complete documents but cannot give you advice
- the buyer's representative will ask you to pay a fee for selling your home
- the buyer's representative will ask you to sign a Sellers Customer Acknowledgement and Fee Agreement prior to presenting the offer
- if you do not reach agreement on a fee, the buyer's representative may have to talk to the buyer prior to presenting any offer
- the buyer's representative cannot give you advice on the value of your home
- the buyer's representative may give you information on homes similar to yours for sale and those that have sold

### Consumers with no representation

A consumer may wish to work with a real estate professional for a particular real estate transaction and does not want a real estate professional to represent them. Examples of this include:

- the real estate professional represents a landlord of a large shopping centre and a potential tenant has an interest in a space in the mall
- the real estate professional has a written buyer brokerage agreement in place and attempts to sell a property where the owner is representing themselves

- the seller has chosen a mere posting option without representation to sell their residential property
- a real estate professional represents a new home builder exclusively and a potential buyer shows interest in the builder's property
- a real estate professional is a tenant representative and approaches a landlord on behalf of a potential tenant

A client is a person that enters into a service agreement with a real estate professional. A customer is a person who has made contact with a real estate professional but does not engage them to provide services.

In the situation where the real estate professional represents the buyer and the seller is selling their home through a mere posting listing, the buyer's real estate professional will treat the seller as a customer and provide sole agency representation to the buyer. This means they will give administrative services to the seller and full representation services to the buyer.

### Disclosure of role and administrative services to the unrepresented seller

**It is important for real estate professionals to disclose that the buyer's brokerage:**

- does not represent the seller
- represents the buyer
- must be loyal to the buyer and always act in their best interest
- does not owe any agency obligations, and in particular, any fiduciary obligations, to the seller
- will not give any services to the seller that require the exercise of discretion or judgement, or the giving of confidential advice, or the brokerage advocating on behalf of the seller
- will communicate to the buyer all information from the seller, whether or not it is of a confidential nature. The exception is for confidential information the brokerage receives from the seller through a prior agency relationship with the seller
- will not give information or advice to the seller that is not in the best interest of the buyer

### Obligations to the seller

The buyer brokerage's responsibilities to the seller are:

- exercise reasonable care and skill in relation to the brokerage services
- not negligently or knowingly give the seller false or misleading information
- hold all monies the brokerage receives in trust in accordance with the provisions of the Act
- comply with the provisions of the Act, Rules, Regulations, and Bylaws

### Administrative services to the seller

When it is in the best interest of a client, the industry member may give administrative services to a customer. Real estate professionals will give these services to a customer because doing so would be for the benefit of their client and the transaction. Administrative services are at the option of the real estate professional, without creating a client relationship. The brokerage, at its sole discretion, may give the following information or services to the seller:

- real estate statistics and information on properties including comparable property information available through listing services or other local databases
- standard form agreements of purchase and sale and other relevant form documents and act as scribe in their preparation in accordance with the instructions of the seller
- the names of real estate service providers, but the brokerage will not recommend any particular service provider
- present, in a timely manner, all offers and counter-offers to and from the buyer and seller
- convey, in a timely manner, all information the seller wishes to communicate to the buyer
- inform the buyer and seller of the progress of the transaction