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## **Step 5: Choose Your Representative**

### ***Do you want to use the services of an agent?***

It is a reasonably important question to ask. Agents have access to more properties than you might, and they might better be able to steer you towards properties that might interest you. If you choose to work with an agent, read further understand the kind of relationship you are creating.

If you don't want to use an agent you don't have to. Buying a home is a science, not a mystery. If you tour enough houses, review each of them objectively, and understand what constitutes value in a neighborhood, you can usually do reasonably well without an agent. If you don't use an agent, make sure you engage an attorney who will help you fill out a purchase offer, review it, and also represent you at your closing. You'll probably also want to have informal conversations with people who live in the neighborhood in which you are looking to obtain an understanding of the history and market values in the area.

### ***What is an agent?***

If you decide to work with an agent, recognize that there are three kinds of real estate professionals. A **salesperson** or **sales associate** has taken some real estate courses and received a license to sell as long as s/he is affiliated with a real estate broker who supervises the work s/he performs.

A **real estate broker** has more real estate scholastic training, more years of experience, and a higher level license. A broker generally operates an office and supervises a group of salespeople.

A **Realtor** is a trademark designation for a broker who has joined the National Association of Realtors (NAR). The NAR requires all Realtors to follow a Code of Ethics which describes how brokers should act as they conduct business. Many, but not all, brokers are Realtors.

A privilege of belonging to the NAR is access to the local **Multiple Listing Service (MLS)**. This is a local or regional database which stores descriptions of all the homes currently listed with Realtors in your area. Salespeople have access to the MLS because they are supervised in an office by a Realtor.

All of these people are **agents**. Agency represents a trust-laden relationship between you and someone else. An agent has a fiduciary responsibility to you, meaning s/he is required to act in your best interest, financial or otherwise. In a real estate sales transaction, your real estate professional is your agent, and you are the **principal**.

Given that an agency relationship exists, there are different kinds of agency. **Single agency** is when an agent represents one principal. A single agency seller represents a seller; a single agency buyer represents a buyer. **Dual agency** exists when the buyer agent and seller agent work for the same broker. It's allowed if both the seller and buyer are aware of the situation. If it is not disclosed, it is grounds for revoking an offer by either a buyer or a seller. **Divided agency**





is the situation where a broker does not disclose a condition of dual agency. Divided agency is illegal.

**Unless otherwise stated, all agents represent the seller in a real estate transaction.** That means that if you, as a buyer, go to a real estate office and inquire about houses for sale, the agent with whom you work is representing the seller's interest even if the agent and seller have never met. **The agent is not representing you, the buyer.** The agent has a fiduciary relationship with the seller, **not** the buyer.

This changes if you and the agent sign a **buyer agency agreement**. If such an agreement is formally created, the agent then establishes a fiduciary relationship with you and represents your best interest in any real estate transaction.

Buyer agency was not common in the past, however, it is gaining popularity. A buyer agent will screen houses for you, drive you around, educate you about the market, help negotiate a price, assist in writing purchase offers, assist you in obtaining financing, and represent you at the formal closing. Seller agents will probably do all that for you except represent you at closing and negotiate price; after all, if they represent the seller, they must obtain the highest price possible, not necessarily a price you think is fair. Seller agents

- cannot tell you what to offer
- cannot tell you which home to buy given a selection
- cannot point out defects in a home unless they are material and must be disclosed
- can only provide comparable sales data upon request

Regardless of whether you use a seller or a buyer agent, you should ask for comparable sales data; it saves you research time. **Comparables** or "**comps**" are similar homes in the neighborhood that sell in the same price range. They may not be exactly alike, but they are close enough such that you can gauge relative market values. Ask for original asking prices and actual selling prices for recent sales in your neighborhood of choice.

If you feel comfortable working with agents who represent the seller, go ahead. You want to be somewhat discreet about revealing information about yourself or your finances because the seller agent is required to report that to the seller. If you see a house for sale, prepare an offer by yourself or with the assistance of an attorney. Don't tell the agent what you are willing to pay or what your best offer is. The agent must report all these details to the seller, and it could work out to your detriment.

If you want to create a buyer agency agreement with an agent, go ahead. This means that you must choose a good agent, not just one who is available. Recognize that you might owe the agent a fee if s/he is instrumental in your purchasing a specific house. Some buyer agents work for a flat fee or on an hourly basis. A buyer agent may choose to split with a seller agent any commission earned and paid by the seller, but this may not always be the case. If the home is "For Sale By Owner", pronounced "fizzbo", the seller may or may not be inclined to pay a commission. You will pay the agent if the seller doesn't. Make sure you understand the agent's fee structure before establishing a formal relationship.

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