



The Benefits of Buyer Representation In Real Estate Transactions

Introduction

Prior to 1983 real estate agents were sub-agents to sellers and represented their interest. 71% of buyers thought they were being represented, but were not.

The Federal Trade Commission (FTC) involvement changed the business model to have both sellers and buyers represented by their own agent. Now buyers may have an agent represent their interests and be their advocate.

Previously, the compensation to the buyer's agent was included in the seller's overall commission. Buyers were effectively paying their side of the commission in their purchase price. Recent litigation has changed this.

As of August 17, 2024, buyers and their agents must enter into a buyer agency agreement that spells out rights and responsibilities of each party and the payment of compensation to their buyer agent.

Client or Customer?

Client: When you enter into a buyer agent or buyer broker agreement, you become the client of the real estate agent. Your agent becomes your advocate, keeps all your information confidential, acts in your interests, negotiates on your behalf, provides market value information, and assists in determining a reasonable purchase strategy.

Customer: In a customer relationship, the agent represents the seller. Any information you provide may be shared with the seller. Information about the seller is confidential. You are responsible for determining accurate information and structuring a purchase offer. It is in your best interest to be a client through a buyer agent agreement.

Agent Compensation

As a result of this litigation, the rules for the negotiability and payment of commission have been changed or clarified. The amount of commission is negotiable between the broker and their client, whether the client is a seller or buyer. However, brokers are not deprived from holding to their stated fee schedule.

Because sellers are not required to offer buyer agent compensation through their listing brokerage, you may be responsible for payment of your agent's fee. You have the option to pay your agent directly, see only homes that offer buyer agent compensation or ask for a seller concession in their offer to purchase.

Overview of a Buyer Agent Agreement

Rights and responsibilities

Agent: Understand your needs, establish contractual relationship, arrange financing, locate property, disclose relevant information, assist in establishing value negotiate the purchase, manage the process and arrange the closing.

Buyer: Work exclusively with your agent, work actively and responsively, provide accurate and complete information (Needs, Budget, financial information, requirements), attend scheduled property viewings and inspections, disclose any information that would affect the purchase or financing, adhere to the terms and conditions of the agreement and pay the agreed upon commission.

Exclusive vs. Non exclusive

Exclusive: The Commission is due and payable even if you acquire a home on your own without the assistance or involvement of your agent. This assures compensation to your agent and provides an incentive to work diligently to find you a home. Also, the majority of work and effort occurs after the home is found.

Non-exclusive: The Commission is due and payable only if you acquire a home with the assistance and involvement of your agent.

Buyer Options relating to compensation

Agents must disclose to you how there are being compensated. Here are two ways to compensate your agent:

1. Pay directly: defined amount or percentage of the price.
2. Have it paid from the commission charged by the listing broker
3. Ask the seller to pay a portion of your closing costs within the offer to purchase

If seller does not offer buyer agent compensation

1. You agree to pay in full
2. Decide whether to have homes shown to you in the absence of compensation.
3. Request seller concession as a term of the purchase agreement
4. Agree how to handle the difference between the seller compensation and the fee you charge

Retainer

Your agent may ask for a retainer to be paid up front. Agree to the amount, terms of refundability and whether it will be applied to the final commission.

Services Provided by a Real Estate Agent

Represent your interests as their client

Assist with the timeline of purchase



Understand your housing requirements

- Listen to and understand your needs

- Establish a list of preferences

- Be clear on the required feeling of the home

Assist with financing

- Assist with financial information and options

- Advise on mortgage requirements (Cash, Income, Debt, Credit.)

- Connect with a lender

- Assist with pre-approval

Educate

- Itemize the requirements to purchase a home

- Provide an overview of the process

- Establish a timeline of events

Property search

- Conduct market research

- Search the MLS for current offerings

- Review personal contacts for homes coming to market

- Connect with coop agents for homes coming to market

- Search other sources of homes; expired, FSBO, etc.

Show the property

- Schedule the showing with listing agent or seller

- Provides efficient viewing of properties

- Provides all property information

- Draws attention to key benefits and drawbacks

- Answers questions

Establish value and offer price

- Prepare a CMA with current market data

- Itemize recent sales

- Determine fair price to offer

Negotiate the purchase

- Interact with the listing agent
- Determine how to prepare an acceptable offer
- Review essentials of a valid contract
- Structure a purchase strategy
- Draft the purchase agreement
- Explain your rights and responsibilities
- Present the agreement to the seller and/or the listing agent
- Manage counter offers to gain agreement

Assist with document preparation

Coordinate required services

- Select and schedule the home inspector
- Schedule and attend the appraisal

Manage the process

- Coordinate multiple connected transactions
- Assist with related paperwork
- Negotiate required repairs
- Communicate with parties to the transaction; coop agent, lender, attorney, etc.
- Assist with transaction associated problems and issues
- Manage the status of mortgage approval

Arrange for final closing and possession

- Arrange final walk-through
- Assist with document preparation
- Coordinate closing date for all parties
- Manage possession

Post sale support

- Move-in assistance
- Problems after the closing
- Access to documents
- Home ownership questions

