

Registrar's Bulletin Multiple Representation

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This bulletin describes the disclosure obligations of a brokerage before it enters into a multiple representation situation. This includes representing a buyer and seller or multiple prospective buyers in the same transaction.

Services

In all situations, before entering into an agreement regarding trading in real estate, registrants are required to:

- Describe the services that are generally available to buyers and sellers;
- Describe the services that will be provided and the alternatives available to the potential client or customer;
- Inform prospective buyers and sellers of the possibility of multiple representation, including a description of the services the brokerage would provide in a multiple representation situation; and
- Make it clear to prospective buyers and sellers that the brokerage cannot represent multiple clients in a transaction unless all of the potential clients consent in writing to that representation.

Written consent from clients

When a multiple representation situation arises, registrants must explain how the services provided to the client will differ from a single representation situation, including any differences in the sharing of information. These disclosures are to be made at the earliest practical opportunity and before an offer to purchase is made.

The brokerage must also obtain the written consent of all of the parties it is representing in that transaction, via their salespersons or brokers.

Written consent is required in situations where a single brokerage represents two or more clients in a trade, even if different salespersons or brokers are involved. Given that the brokerage has a fiduciary relationship with more than one client to a trade, it must be clear to all clients to the trade how information related to the transaction will be exchanged and how services will be provided.

Consent to multiple representation is required when:

- A brokerage is representing both the buyer and seller in a transaction; or
- A brokerage is representing multiple prospective buyers in a single transaction.



In the case of multiple buyers, it may not be clear to the buyer's brokerage that a single brokerage is representing multiple buyers until one or more buyers have expressed interest in the same property. This knowledge may come through the listing brokerage, or its representatives, as they are in a position to know the source of all buyers. The listing brokerage is then expected to pass on this information to the buyers' brokerage. In such situations, consent to the multiple representation would be required as soon as the brokerage becomes aware that it is operating in a multiple representation situation.

If written consent from a client is refused

In situations where a client refuses to consent to multiple representation, the brokerage must release one or more of its clients to seek alternate representation with another brokerage. The brokerage cannot represent more than one party to a trade without the written consent of all parties it is representing in that transaction.

Multiple customers

A customer is a person who has entered into a service agreement with a brokerage related to a real estate transaction, but who is not being represented by that brokerage as a client. This might apply to a situation in which a brokerage has entered into an agreement with a person to assist in a real estate transaction, but the brokerage or its representatives are not providing any fiduciary advice or services to the person as part of that agreement.

Registrants must treat customers with fairness, honesty and integrity, but do not have the obligation of protecting the customer's best interest as they would with a client.

With respect to services provided to customers, registrants must disclose to buyers and sellers that they may act for more than one customer in a transaction. A brokerage does not require a customer's or client's written consent to provide services to an additional customer in a transaction.

Relevant sections of REBBA 2002 and the Code of Ethics

Code of Ethics: Sections 3, 4, 5, 10, 16 and 17

REBBA 2002: Section 22 (Ont. Reg. 567/05)

