



MANITOBA
REAL ESTATE ASSOCIATION

Build. Empower. Uphold.



Working with
a REALTOR®

The following list outlines some of their duties arising out of an agent/client relationship in a typical real estate transaction:

1. **Loyalty** to serve your best interests ahead of anyone else's, including their own and at all times to exercise good faith and to disclose all known facts and information they are aware of that may influence your decision.
2. **Obedience** to follow all your lawful instructions.
3. **Discretion** to keep confidential your private circumstances, motivations, and confidences, which you shared with the REALTOR® or which the REALTOR® or their brokerage has learned.
4. **Competence** to exercise reasonable care and skill in providing agreed-upon services.
5. **Accounting** of all money, deposits, or other property entrusted to them.

Agency Disclosure

The REALTOR® from whom you received this brochure is a member of The Manitoba Real Estate Association and a local real estate board. The REALTOR® is also a member of the Canadian Real Estate Association, which entitles them to be referred to by the term REALTOR®. A REALTOR® is required to abide by a strict code of ethics and standards of business practice that serve to protect the buying and selling public. One of the ethical obligations embodied in the standards of business practice requires that all REALTORS® disclose to all parties concerned which party they are representing on behalf of their brokerage in a real estate transaction, i.e., the seller or the buyer.

The requirement reads as follows:

“A REALTOR® shall fully disclose in writing to, and is advised to seek written acknowledgement from, his or her Clients and those Customers who are not represented by other Registrants regarding the role and nature of the service the REALTOR® will be providing. This disclosure shall be made at the earliest possible opportunity and in any event prior to the REALTOR® providing professional services which go beyond providing information as a result of incidental contact by a consumer.”

Buying or selling a home is often one of the largest financial transactions a person makes. It is important to consider what manner of legal relationship you might be entering into with the REALTOR® you choose to assist you. This brochure will refer to the individual representative of a real estate brokerage as the “REALTOR®” and the real estate firm that employs the “REALTOR®” as the “brokerage”.

Your Relationship with the REALTOR®

When you engage a REALTOR® to represent you or act on your behalf in a particular matter, an agent/client relationship arises between you and the REALTOR®’s employing brokerage. This relationship can be created by the signing of a listing contract or service agreement for the sale of your home, or a buyer’s service agreement, or an agency contract for services and/or representation in buying a home. For a buyer, an agency relationship can also arise through the implied conduct and activity between you and the REALTOR® when the REALTOR® takes on the role of representing you in viewing properties, obtaining information, or assisting in negotiations. Through these actions, it may become evident that the REALTOR® has undertaken to represent you in an agency relationship even though this legal relationship may never have been discussed. For a buyer, an agent/client relationship can be created when a REALTOR® undertakes to do something on your behalf which results in your reliance and acceptance of the REALTOR®’s actions.

The Real Estate Services Act requires that if a REALTOR® agrees to provide any real estate services to you, such as finding real estate for you, showing real estate to you, making representations to you about the real estate, or advising you as to an appropriate price for real estate, etc., the REALTOR® must enter into a written service agreement with you on behalf of their brokerage. While not necessarily the same as the creation of an agency relationship, a real estate brokerage and their REALTOR® representative are not permitted to provide you with real estate services until they enter into a written service agreement with you.

Duties and Obligations of the REALTOR®

Once an agent/client relationship is formed, the REALTOR® and their employing brokerage are required to act in your best interests in any transaction.

TYPES OF AGENCY RELATIONSHIPS

Agent Represents One Party

SINGLE REPRESENTATION



Buyer and seller are represented by different brokerages/agents.

In Manitoba, the approach to real estate agency relationships is one that reflects the general understanding and expectation of buyers and sellers. It is generally understood that whether buying or selling, the REALTOR® and the brokerage that you engage and rely upon for real estate services has formed an agency relationship with you whereby the agent/client duties arise. It is this approach that is reflected in your local real estate board's Multiple Listing Service® contract for residential property and the statutory residential or condominium offer to purchase form that the REALTOR® is required to use for single family residential or condominium properties. It is assumed that, unless the parties otherwise agree, the REALTOR® and their brokerage representing and providing services to the seller is the seller's agent and the REALTOR® and their brokerage representing and providing services to the buyer is the buyer's agent.

Agent or Brokerage Represents Both Parties

JOINT REPRESENTATION



REALTORS® from the same brokerage, and the brokerage represent both the buyer and the seller.

It may arise that your REALTOR®, or two separate REALTORS® representing the same brokerage also represent the person who wishes to buy your home (or represent the owner of the home you are interested in buying), or if you are a buyer, another buyer represented by a REALTOR® from the same brokerage is interested in purchasing the home you are interested in buying. This may occur (even though the REALTORS® are different persons) when both REALTORS® are employed by the same brokerage. When this occurs, a conflict of interest arises, and the brokerage is only permitted to continue to represent both parties if both parties consent to the joint representation and acknowledge the impact that the joint representation will have on the duties of the REALTORS® and their brokerage. You may be asked to sign an acknowledgement of limited joint representation document. The terms of that acknowledgement will set out the agreed limits of the agency duties outlined earlier in this brochure. When both parties agree to limited joint representation, the REALTOR® and their brokerage's relationship to both parties is affected by the requirement for fairness and even-handedness resulting in the brokerage and its REALTORS® being unable to represent the interests of one party over the other. Subject to the terms of any agreement between the parties that may be set out in a signed acknowledgement of limited joint representation, the REALTOR® may no longer be able to keep confidential certain types of information relevant to the transaction from the other party (or parties) and may be compelled to disclose these facts in an exercise of openness and fairness.

If you have any questions or concerns about joint representation and the impact it will have on the agency duties and the services you expect to receive from a REALTOR®, you should discuss this with the REALTOR® involved before entering an agent/client relationship. The terms of any listing, buying, or service agreement that you sign may include your consent in advance to the brokerage representing both parties jointly; if that is not your desire, you should request that the agreement be amended accordingly.

No Agency Representation



NO REPRESENTATION

A buyer or seller (unrepresented) communicates directly with the other party's REALTOR® or brokerage.

Apart from a single agency relationship (wherein the brokerage represents one party) or joint agency relationship (wherein the brokerage represents both parties), it is possible to engage the services of a REALTOR® without you and the brokerage establishing an agent/client relationship. This may occur when you attend an open house that is being offered for sale, and you make an offer to purchase it through the REALTOR® representing the seller. Or perhaps you are selling a home privately, and a buyer's REALTOR® contacts you directly and assists you in selling the home to their client. In these instances, the REALTOR® must make it clear to you that even when assisting you with things such as completing the paperwork or answering your questions, they and their brokerage are not representing you but rather they are representing the other party only. Even though it is clear between you and the REALTOR® and their brokerage that they are not representing you or providing real estate services to you, the REALTOR® will still owe certain legal and ethical duties to you, which include the following:

- 1. Honesty and fairness** in response to all your questions concerning the real estate the REALTOR® is promoting.
- 2. Care and skill** in providing accurate information and assistance with the offer to purchase contract, in presenting the offer you submit, in dealing with conditions, in explaining legalities, and overall general assistance.

One of the disadvantages of dealing with the other party's REALTOR® or not having an agent/client relationship with the REALTOR® you asked to assist you is that you cannot expect the REALTOR® to provide you with any real estate services such as negotiation of the price or other terms of a trade in real estate on your behalf, because such activity may be contrary to the best interests of the client the REALTOR® and their brokerage are representing.

Acknowledgement

I acknowledge having received a copy of this brochure entitled *Working With a REALTOR®* and that:

NAME OF REALTOR®

Engaged by:

NAME OF BROKERAGE

Has disclosed that they are representing:

(check where appropriate)

- The Seller's interest and not my own
 - The Buyer's interest and not my own
 - My interest as a Seller
 - My interest as a Buyer
 - That circumstances may arise where the Brokerage represents one or more other parties with respect to the transaction and in those circumstances represents both my interest and the interest of the other party (or parties) as joint representative with the full knowledge and consent of both parties
 - Other:
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SIGNATURE

DATE

This brochure is not a contract for agency or real estate services. Its purpose is to assist in clarifying the agency role and nature of services that a REALTOR® and their employing brokerage may provide to a client or customer.

If you have any questions about the contents of this brochure, talk to the REALTOR® who provided you with this brochure, or another representative of the brokerage, or contact your local real estate board or The Manitoba Real Estate Association.



REALTOR® Place
1873 Inkster Blvd.
Winnipeg, MB R2R 2A6

T: 204.772.0405 | 1.800.267.6019
F: 204.775.3781

realestatemanitoba.com

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