

UNDERSTANDING WHOM REAL ESTATE AGENTS REPRESENT

Montana law requires that BUYER's and SELLER's be advised about the different types of agency relationships available to them (MCA § 37-51-102 & 37-51-321). A real estate agent is qualified to advise only on real estate matters. As the client or as the customer, please be advised that you have the option of hiring outside professional services on your own behalf (legal and tax counsel, home or building inspectors, accountant, environmental inspectors, range management or agricultural advisors, etc.) at any time during the course of a transaction to obtain additional information to make an informed decision. Each and every agent has obligations to each other party to a transaction no matter whom the agent represents. The various relationships are as follows:

SELLER's Agent: exclusively represents the SELLER (or landlord). This agency relationship is created when a listing is signed by a SELLER/owner and a real estate licensee. The SELLER's agent represents the SELLER only, and works toward securing an offer in the best interest of the SELLER. The SELLER agent still has obligations to the BUYER as enumerated herein.

BUYER's Agent: exclusively represents the BUYER (or tenant). This agency relationship is created when a BUYER signs a written BUYER-broker agreement with a real estate licensee. The BUYER agent represents the BUYER only, and works towards securing a transaction under the terms and conditions established by the BUYER and in the best interest of the BUYER. The BUYER agent has obligations to the SELLER as enumerated herein.

Dual Agent: does not represent the interests of either the BUYER or SELLER exclusively. This agency relationship is created when an agent is the SELLER's agent (or subagent) and enters into a BUYER-broker agreement with the BUYER. This relationship must receive full informed consent by all parties before a "dual-agency" relationship can exist. The "dual agent" does not work exclusively for the SELLER or the BUYER but works for both parties in securing a conclusion to the transaction. If you want an agent to represent you exclusively, do not sign the "Dual Agency" Disclosure and Consent" form.

Statutory Broker: is a licensee who assists one or more of the parties in a transaction, but does not represent any party as an agent. A licensee is presumed to be acting as a "statutory broker" unless they have entered into a listing agreement with the SELLER, a BUYER-broker agreement with the BUYER, or a dual agency agreement with all parties.

In-House SELLER Agent Designate: is a licensee designated by the broker- owner/ manager (of the real estate brokerage) to be the exclusive agent for the SELLER for a specific transaction in which the brokerage has the property listed and the BUYER is working directly through the same brokerage also. This agent may not act on behalf of any other member of the transaction and works for the benefit of the SELLER, but still is obligated to the BUYER as any SELLER's agent would be.

In-House BUYER Agent Designate: is a licensee designated by the broker- owner/ manager (of the real estate brokerage) to be the exclusive agent for the BUYER for a specific transaction in which the brokerage has the property listed and the BUYER is working directly through the same brokerage also. This agent may not act on behalf of any other member of the transaction and works for the benefit of the BUYER, but still obligated to the SELLER as any BUYER's agent would be.

Subagent: is an agent of the licensee already acting as an agent for either the SELLER or BUYER. A "SELLER agent" can offer "subagency" to an agent to act on his behalf to show the property and solicit offers from BUYER's. A "BUYER agent can offer "subagency" to an agent to act on his behalf to locate and secure certain property meeting the BUYER's criteria.