



CONFIDENTIALITY AGREEMENT

RE: Properties as subsequently provided on an ongoing basis or _____(Property)

In connection with entering into discussions with Crystal Investment Property, LLC (CIP) the undersigned Purchaser and/or Broker (Parties) agree to treat all documents provided by CIP and discussions with CIP relating to the potential purchase of the above referenced property(ies) (Property) as strictly CONFIDENTIAL. Parties are further advised that the Seller has indicated that all inquiries concerning the Property and all communications with respect to the sale of such Property be directed to CIP.

Parties further agree not to use or disclose any information or documents provided to Parties by CIP, regardless of whether they are individually identified as CONFIDENTIAL, without the written consent of CIP. All informational materials relating to the Property shall continue to be the property of the Seller and/or CIP and shall be used for the sole purpose of evaluating the Property. Parties agree to take all reasonable precautions to protect the confidentiality of such information and, upon written request by CIP, to immediately return any documents to CIP, which contain or reflect such Confidential Information. Although we have endeavored to include such information as we believe pertinent for the purposes of evaluation of the Property for investment potential, Parties understand and acknowledge that neither CIP nor Seller make any representation or warranty as to the accuracy or completeness of the information. Parties further understand and acknowledge that the information used to prepare any materials provided were furnished by sources deemed reliable but have not been verified and are subject to Parties' own investigations and diligence. Parties agree that neither Seller nor CIP shall have any liability for any reason to Parties nor their advisors resulting from the use of the materials provided in connection with the pursuit of securing an investment in the Property, whether consummated or not for any reason.

Parties acknowledge that the Property is subject to prior sale, contractual obligation, or withdrawal from the market for any reason without notice. CIP and Seller retain the right in their sole discretion to withhold information from Parties if, in their determination, the Purchaser is not a qualified investor. Such qualifications may include but are not limited to financial capability, relevant industry experience, net worth, and demonstrated ability to complete a transaction of this type and size. CIP may request and Parties agree to supply information which may be deemed relevant in determining the qualification of the Purchaser.

Should Purchaser contact CIP directly without Broker representation then said Purchaser hereby represents and warrants that Purchaser has not contacted or entered into any agreement with any real estate broker, agent, finder, or any other party in connection with this transaction, other than the Broker, Joseph P. Kennedy, and that it has not taken any action which would result in any real estate broker's, finder's, or other fees or commissions being due or payable to any other party with respect to the transaction contemplated hereby. Additionally Purchaser, for all properties provided by CIP, agrees to protection of CIP as procuring cause of resultant transaction including although not limited to assurance of standard and equitable compensation for said role.

Parties specifically agree not to enter into any discussions with any employee or guest at the Property about any matter relating to hotel operations or a potential sale of the hotel. In the event of any material breach of the provisions of this agreement CIP and/or Seller shall be entitled to equitable relief in addition to all other remedies available at law or at equity. This agreement shall be interpreted in accordance with the laws of the State of Oregon. The venue for any action shall be Washington County, Oregon.

By signature below, Purchaser acknowledges receipt of the Oregon, Washington and Idaho Real Estate Commission's "Agency Disclosure" brochures. **Signing this document does not create an agency relationship or a contractual relationship of any kind.**

Purchaser: _____

Broker: _____

Signature: _____ Date _____

Signature: _____ Date _____

Phone: _____

Phone: _____

Email: _____

Email: _____

Address: _____

Address _____



INITIAL AGENCY DISCLOSURE PAMPHLET INSTRUCTIONS

A licensed real estate broker or principal real estate broker is required to give a copy of an Initial Agency Disclosure Pamphlet to each consumer the broker will represent. The pamphlet describes the legal relationship between a broker and the consumer when the broker acts as the consumer's "agent."

Real estate brokers and principal real estate brokers have legal obligations, called affirmative duties, to both buyers and sellers in a real estate transaction.

Oregon Revised Statute (ORS) 696.805 lists the affirmative duties of a licensed real estate broker or principal real estate broker acting as a seller's agent.

The affirmative duties of a broker or principal broker acting as a buyer's agent are found in ORS 696.810.

ORS 696.815(1) allows a real estate licensee to represent both the seller and the buyer in a real estate transaction under a disclosed limited agency agreement, provided there is full disclosure of the relationship under the agreement.

Oregon Administrative Rules (OAR) adopted by the Oregon Real Estate Agency provide the form and content of the disclosures and the related pamphlet. OAR 863-015-0215 is set forth below for the convenience of licensees. A real estate broker or principal real estate broker may copy and use the information set out below after the broken line as the required Initial Agency Disclosure Pamphlet.

863-015-0215

Initial Agency Disclosure Pamphlet

- (1) An agent must provide a copy of the Initial Agency Disclosure Pamphlet provided for in section (3) of this rule at first contact with each represented party to a real property transaction.
- (2) An agent need not provide a copy of the Initial Agency Disclosure Pamphlet to a party who has, or may be reasonably assumed to have, already received a copy of the pamphlet from another agent.
- (3) The Initial Agency Disclosure Pamphlet must be printed in substantially the following form:

INITIAL AGENCY DISCLOSURE PAMPHLET

Consumers: This pamphlet describes the legal obligations of real estate licensees in Oregon. Real estate brokers and principal real estate brokers are required to provide this information to you when they first meet you.

This pamphlet is informational only. Neither the pamphlet nor its delivery to you may be interpreted as evidence of intent to create an agency relationship between you and a broker or a principal broker.

Real Estate Agency Relationships

An "agency" relationship is a voluntary legal relationship in which a licensed real estate broker or principal broker (the "agent") agrees to act on behalf of a buyer or a seller (the "client") in a real estate transaction. Oregon law provides for three types of agency relationships between real estate agents and their clients:

Seller's Agent -- Represents the seller only.

Buyer's Agent -- Represents the buyer only.

Disclosed Limited Agent -- Represents both the buyer and seller, or multiple buyers who want to purchase the same property. This can be done only with the written permission of all clients.

The actual agency relationships between the seller, buyer and their agents in a real estate transaction must be acknowledged at the time an offer to purchase is made. Please read this pamphlet carefully before entering into an agency relationship with a real estate agent.

Definition of "Confidential Information"

Generally, licensees must maintain confidential information about their clients. "Confidential information" is information communicated to a real estate licensee or the licensee's agent by the buyer or seller of one to four residential units regarding the real property transaction, including but not limited to price, terms, financial qualifications or motivation to buy or sell. "Confidential information" does not mean information that:

- (a) The buyer instructs the licensee or the licensee's agent to disclose about the buyer to the seller, or the seller instructs the licensee or the licensee's agent to disclose about the seller to the buyer; and
- (b) The licensee or the licensee's agent knows or should know failure to disclose would constitute fraudulent representation.

Duties and Responsibilities of a Seller's Agent

Under a written listing agreement to sell property, an agent represents only the seller unless the seller agrees in writing to allow the agent to also represent the buyer.

An agent who represents only the seller owes the following affirmative duties to the seller, the other parties and the other parties' agents involved in a real estate transaction:

- (1) To deal honestly and in good faith;

- (2) To present all written offers, notices and other communications to and from the parties in a timely manner without regard to whether the property is subject to a contract for sale or the buyer is already a party to a contract to purchase; and
- (3) To disclose material facts known by the agent and not apparent or readily ascertainable to a party.

A seller's agent owes the seller the following affirmative duties:

- (1) To exercise reasonable care and diligence;
- (2) To account in a timely manner for money and property received from or on behalf of the seller;
- (3) To be loyal to the seller by not taking action that is adverse or detrimental to the seller's interest in a transaction;
- (4) To disclose in a timely manner to the seller any conflict of interest, existing or contemplated;
- (5) To advise the seller to seek expert advice on matters related to the transaction that are beyond the agent's expertise;
- (6) To maintain confidential information from or about the seller except under subpoena or court order, even after termination of the agency relationship; and
- (7) Unless agreed otherwise in writing, to make a continuous, good faith effort to find a buyer for the property, except that a seller's agent is not required to seek additional offers to purchase the property while the property is subject to a contract for sale.

None of these affirmative duties of an agent may be waived, except (7). The affirmative duty listed in (7) can only be waived by written agreement between seller and agent.

Under Oregon law, a seller's agent may show properties owned by another seller to a prospective buyer and may list competing properties for sale without breaching any affirmative duty to the seller.

Unless agreed to in writing, an agent has no duty to investigate matters that are outside the scope of the agent's expertise, including but not limited to investigation of the condition of property, the legal status of the title or the seller's past conformance with law.

Duties and Responsibilities of a Buyer's Agent

An agent, other than the seller's agent, may agree to act as the buyer's agent only. The buyer's agent is not representing the seller, even if the buyer's agent is receiving compensation for services rendered, either in full or in part, from the seller or through the seller's agent.

An agent who represents only the buyer owes the following affirmative duties to the buyer, the other parties and the other parties' agents involved in a real estate transaction:

- (1) To deal honestly and in good faith;
- (2) To present all written offers, notices and other communications to and from the parties in a timely manner without regard to whether the property is subject to a contract for sale or the buyer is already a party to a contract to purchase; and

- (3) To disclose material facts known by the agent and not apparent or readily ascertainable to a party.

A buyer's agent owes the buyer the following affirmative duties:

- (1) To exercise reasonable care and diligence;
- (2) To account in a timely manner for money and property received from or on behalf of the buyer;
- (3) To be loyal to the buyer by not taking action that is adverse or detrimental to the buyer's interest in a transaction;
- (4) To disclose in a timely manner to the buyer any conflict of interest, existing or contemplated;
- (5) To advise the buyer to seek expert advice on matters related to the transaction that are beyond the agent's expertise;
- (6) To maintain confidential information from or about the buyer except under subpoena or court order, even after termination of the agency relationship; and
- (7) Unless agreed otherwise in writing, to make a continuous, good faith effort to find property for the buyer, except that a buyer's agent is not required to seek additional properties for the buyer while the buyer is subject to a contract for purchase.

None of these affirmative duties of an agent may be waived, except (7). The affirmative duty listed in (7) can only be waived by written agreement between seller and agent.

Under Oregon law, a buyer's agent may show properties in which the buyer is interested to other prospective buyers without breaching an affirmative duty to the buyer.

Unless agreed to in writing, an agent has no duty to investigate matters that are outside the scope of the agent's expertise, including but not limited to investigation of the condition of property, the legal status of the title or the seller's past conformance with law.

Duties and Responsibilities of an Agent Who Represents More than One Client in a Transaction

One agent may represent both the seller and the buyer in the same transaction, or multiple buyers who want to purchase the same property, only under a written "Disclosed Limited Agency Agreement" signed by the seller and buyer(s).

Disclosed Limited Agents have the following duties to their clients:

- (1) To the seller, the duties listed above for a seller's agent;
- (2) To the buyer, the duties listed above for a buyer's agent; and
- (3) To both buyer and seller, except with express written permission of the respective person, the duty not to disclose to the other person:
 - (a) That the seller will accept a price lower or terms less favorable than the listing price or terms;
 - (b) That the buyer will pay a price greater or terms more favorable than the offering price or terms; or

(c) Confidential information as defined above.

Unless agreed to in writing, an agent has no duty to investigate matters that are outside the scope of the agent's expertise.

When different agents associated with the same principal broker (a real estate licensee who supervises other agents) establish agency relationships with different parties to the same transaction, only the principal broker will act as a Disclosed Limited Agent for both the buyer and seller. The other agents continue to represent only the party with whom the agents have already established an agency relationship unless all parties agree otherwise in writing. The principal real estate broker and the real estate licensees representing either seller or buyer shall owe the following duties to the seller and buyer:

- (1) To disclose a conflict of interest in writing to all parties;
- (2) To take no action that is adverse or detrimental to either party's interest in the transaction; and
- (3) To obey the lawful instructions of both parties.

No matter whom they represent, an agent must disclose information the agent knows or should know that failure to disclose would constitute fraudulent misrepresentation.

You are encouraged to discuss the above information with the licensee delivering this pamphlet to you. If you intend for that licensee, or any other Oregon real estate licensee, to represent you as a Seller's Agent, Buyer's Agent, or Disclosed Limited Agent, you should have a specific discussion with the agent about the nature and scope of the agency relationship. Whether you are a buyer or seller, you cannot make a licensee your agent without the licensee's knowledge and consent, and an agent cannot make you a client without your knowledge and consent.



The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate broker or salesperson.
Please read it carefully before signing any documents.

Chapter 18.86 RCW
REAL ESTATE BROKERAGE RELATIONSHIPS

RCW SECTIONS

[18.86.010](#) Definitions.

[18.86.020](#) Agency relationship.

[18.86.030](#) Duties of licensee.

[18.86.040](#) Seller's agent--Duties.

[18.86.050](#) Buyer's agent -- Duties.

[18.86.060](#) Dual agent -- Duties.

[18.86.070](#) Duration of agency relationship.

[18.86.080](#) Compensation.

[18.86.090](#) Vicarious liability.

[18.86.100](#) Imputed knowledge and notice.

[18.86.110](#) Application.

RCW 18.86.010

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency relationship" means the agency relationship created under this chapter or by written agreement between a licensee and a buyer and/or seller relating to the performance of real estate brokerage services by the licensee.

(2) "Agent" means a licensee who has entered into an agency relationship with a buyer or seller.

(3) "Business opportunity" means and includes a business, business opportunity, and goodwill of an existing business, or any one or combination thereof.

(4) "Buyer" means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

(5) "Buyer's agent" means a licensee who has entered into an agency relationship with only the buyer in a real estate transaction, and includes subagents engaged by a buyer's agent.

(6) "Confidential information" means information from or concerning a principal of a licensee that:

(a) Was acquired by the licensee during the course of an agency relationship with the principal;

(b) The principal reasonably expects to be kept confidential;

(c) The principal has not disclosed or authorized to be disclosed to third parties;

(d) Would, if disclosed, operate to the detriment of the principal; and

(e) The principal personally would not be obligated to disclose to the other party.

(7) "Dual agent" means a licensee who has entered into an agency relationship with both the buyer and seller in the same transaction.

(8) "Licensee" means a real estate broker, associate real estate broker, or real estate salesperson, as those terms are defined in chapter 18.85 RCW.

(9) "Material fact" means information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a real estate transaction, or operates to materially impair or defeat the purpose of

the transaction. The fact or suspicion that the property, or any neighboring property, is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gang-related activity, political or religious activity, or other act, occurrence, or use not adversely affecting the physical condition of or title to the property is not a material fact.

(10) "Principal" means a buyer or a seller who has entered into an agency relationship with a licensee.

(11) "Real estate brokerage services" means the rendering of services for which a real estate license is required under chapter 18.85 RCW.

(12) "Real estate transaction" or "transaction" means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a business opportunity, or a lease or rental of real property. For purposes of this chapter, a prospective transaction does not exist until a written offer has been signed by at least one of the parties.

(13) "Seller" means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

(14) "Seller's agent" means a licensee who has entered into an agency relationship with only the seller in a real estate transaction, and includes subagents engaged by a seller's agent.

(15) "Subagent" means a licensee who is engaged to act on behalf of a principal by the principal's agent where the principal has authorized the agent in writing to appoint subagents.

[1996 c 179 § 1.]

RCW 18.86.020
Agency relationship.

(1) A licensee who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) Licensee has entered into a written agency agreement with the seller, in which case the licensee is a seller's agent;

(b) Licensee has entered into a subagency agreement with the seller's agent, in which case the licensee is a seller's agent;

(c) Licensee has entered into a written agency agreement with both parties, in which case the licensee is a dual agent;

(d) Licensee is the seller or one of the sellers; or

(e) Parties agree otherwise in writing after the licensee has complied with RCW [18.86.030](#)(1)(f).

(2) In a transaction in which different licensees affiliated with the same broker represent different parties, the broker is a dual agent, and must obtain the written consent of both parties as required under RCW [18.86.060](#). In such a case, each licensee shall solely represent the party with whom the licensee has an agency relationship, unless all parties agree in writing that both licensees are dual agents.

(3) A licensee may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the licensee complies with this chapter in establishing the relationships for each transaction.

[1997 c 217 § 1; 1996 c 179 § 2.]

NOTES:

Effective date -- 1997 c 217 §§ 1-6 and 8: "Sections 1 through 6 and 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 25, 1997]." [1997 c 217 § 9.]

Real estate agency pamphlet -- 1997 c 217 §§ 1-6: See note following RCW [18.86.120](#).

RCW 18.86.030

Duties of licensee.

(1) Regardless of whether the licensee is an agent, a licensee owes to all parties to whom the licensee renders real estate brokerage services the following duties, which may not be waived:

(a) To exercise reasonable skill and care;

(b) To deal honestly and in good faith;

(c) To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;

(d) To disclose all existing material facts known by the licensee and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the licensee has not agreed to investigate;

(e) To account in a timely manner for all money and property received from or on behalf of either party;

(f) To provide a pamphlet on the law of real estate agency in the form prescribed in RCW [18.86.120](#) to all parties to whom the licensee renders real estate brokerage services, before the party signs an agency agreement with the licensee, signs an offer in a real estate transaction handled by the licensee, consents to dual agency, or waives any rights, under RCW [18.86.020](#)(1)(e), [18.86.040](#)(1)(e), [18.86.050](#)(1)(e), or [18.86.060](#)(2) (e) or (f), whichever occurs earliest; and

(g) To disclose in writing to all parties to whom the licensee renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the licensee, whether the licensee represents the buyer, the seller, both parties, or neither party. The disclosure shall be set forth in a separate paragraph entitled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing entitled "Agency Disclosure."

(2) Unless otherwise agreed, a licensee owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the licensee to be reliable.

[1996 c 179 § 3.]

RCW 18.86.040

Seller's agent--Duties.

(1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW [18.86.030](#) and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;

(b) To timely disclose to the seller any conflicts of interest;

(c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW [18.86.030](#)(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

(2)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different licensees affiliated with the same broker in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest.

[1997 c 217 § 2; 1996 c 179 § 4.]

NOTES:

Real estate agency pamphlet -- 1997 c 217 §§ 1-6: See note following RCW [18.86.120](#).

Effective date -- 1997 c 217 §§ 1-6 and 8: See note following RCW [18.86.020](#).

RCW 18.86.050

Buyer's agent -- Duties.

(1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW [18.86.030](#) and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;

(b) To timely disclose to the buyer any conflicts of interest;

(c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW [18.86.030](#)(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent.

(2)(a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different licensees affiliated with the same broker in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyers or create a conflict of interest.

[1997 c 217 § 3; 1996 c 179 § 5.]

NOTES:

Real estate agency pamphlet -- 1997 c 217 §§ 1-6: See note following RCW [18.86.120](#).

Effective date -- 1997 c 217 §§ 1-6 and 8: See note following RCW [18.86.020](#).

RCW 18.86.060

Dual agent -- Duties.

(1) Notwithstanding any other provision of this chapter, a licensee may act as a dual agent only with the written consent of both parties to the transaction after the dual agent has complied with RCW [18.86.030](#)(1)(f), which

consent must include a statement of the terms of compensation.

(2) Unless additional duties are agreed to in writing signed by a dual agent, the duties of a dual agent are limited to those set forth in RCW [18.86.030](#) and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the dual agent's expertise;

(d) Not to disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(e) Unless otherwise agreed to in writing after the dual agent has complied with RCW [18.86.030](#)(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the dual agent has complied with RCW [18.86.030](#)(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a dual agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent.

(3)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different licensees affiliated with the same broker in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4)(a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different licensees affiliated with the same broker in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest.

[1997 c 217 § 4; 1996 c 179 § 6.]

NOTES:

Real estate agency pamphlet -- 1997 c 217 §§ 1-6: See note following RCW [18.86.120](#).

Effective date -- 1997 c 217 §§ 1-6 and 8: See note following RCW [18.86.020](#).

RCW 18.86.070

Duration of agency relationship.

(1) The agency relationships set forth in this chapter commence at the time that the licensee undertakes to provide real estate brokerage services to a principal and continue until the earliest of the following:

(a) Completion of performance by the licensee;

(b) Expiration of the term agreed upon by the parties;

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a licensee owes no further duty after termination of the agency relationship, other than the duties of:

- (a) Accounting for all moneys and property received during the relationship; and
- (b) Not disclosing confidential information.

[1997 c 217 § 5; 1996 c 179 § 7.]

NOTES:

Real estate agency pamphlet -- 1997 c 217 §§ 1-6: See note following RCW [18.86.120](#).

Effective date -- 1997 c 217 §§ 1-6 and 8: See note following RCW [18.86.020](#).

RCW 18.86.080
Compensation.

(1) In any real estate transaction, the broker's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between brokers.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the licensee.

(3) A seller may agree that a seller's agent may share with another broker the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent may share with another broker the compensation paid by the buyer.

(5) A broker may be compensated by more than one party for real estate brokerage services in a real estate transaction, if those parties consent in writing at or before the time of signing an offer in the transaction.

(6) A buyer's agent or dual agent may receive compensation based on the purchase price without breaching any duty to the buyer.

(7) Nothing contained in this chapter negates the requirement that an agreement authorizing or employing a licensee to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer.

[1997 c 217 § 6; 1996 c 179 § 8.]

NOTES:

Real estate agency pamphlet -- 1997 c 217 §§ 1-6: See note following RCW [18.86.120](#).

Effective date -- 1997 c 217 §§ 1-6 and 8: See note following RCW [18.86.020](#).

RCW 18.86.090
Vicarious liability.

(1) A principal is not liable for an act, error, or omission by an agent or subagent of the principal arising out of an agency relationship:

(a) Unless the principal participated in or authorized the act, error, or omission; or

(b) Except to the extent that: (i) The principal benefited from the act, error, or omission; and (ii) the court determines that it is highly probable that the claimant would be unable to enforce a judgment against the agent or subagent.

(2) A licensee is not liable for an act, error, or omission of a subagent under this chapter, unless the licensee participated in or authorized the act, error or omission. This subsection does not limit the liability of a real estate broker for an act, error, or omission by an associate real estate broker or real estate salesperson licensed to that broker.

[1996 c 179 § 9.]

RCW 18.86.100

Imputed knowledge and notice.

(1) Unless otherwise agreed to in writing, a principal does not have knowledge or notice of any facts known by an agent or subagent of the principal that are not actually known by the principal.

(2) Unless otherwise agreed to in writing, a licensee does not have knowledge or notice of any facts known by a subagent that are not actually known by the licensee. This subsection does not limit the knowledge imputed to a real estate broker of any facts known by an associate real estate broker or real estate salesperson licensed to such broker.

[1996 c 179 § 10.]

RCW 18.86.110

Application.

This chapter supersedes only the duties of the parties under the common law, including fiduciary duties of an agent to a principal, to the extent inconsistent with this chapter. The common law continues to apply to the parties in all other respects. This chapter does not affect the duties of a licensee while engaging in the authorized or unauthorized practice of law as determined by the courts of this state. This chapter shall be construed broadly.

[1996 c 179 § 11.]

Agency Disclosure Brochure



A Consumer Guide to Understanding Agency Relationships in Real Estate Transactions



Specific duties owed by a real estate brokerage and its licensees to Idaho consumers are defined by the "Idaho Real Estate Brokerage Representation Act." Idaho Code 54-2082, *et seq.*

This informational brochure is published by the Idaho Real Estate Commission.

Effective July 1, 2013

Right Now You Are a Customer

All real estate consumers are "Customers" under Idaho law unless a representation agreement is signed. (A real estate licensee working with a customer is called a "Non-Agent".) The law requires all real estate licensees to provide the following "Customer level" services, to everyone:

Remember!
Unless you enter a written agreement for Agency Representation, you will NOT be represented at all.

- Perform necessary and customary acts to assist you in the purchase or sale of real estate;
- Perform these acts in good faith and with honesty and reasonable care;
- Properly account for money or other property you place in the licensee's care;
- Disclose "adverse material facts" to you which are, or should be, within the licensee's knowledge. These are facts that would significantly affect the desirability or value of the property to a reasonable person, and facts that indicate to a reasonable person that one of the parties cannot, or will not, complete obligations of the contract.

As a Customer, your brokerage will not act as your Agent and is not required to promote your best interests or keep your bargaining information confidential. If you use the services of a brokerage without a written agreement, you will remain a Customer.

As a Customer, you may be asked to sign a Compensation Agreement, a contract that requires you to pay a fee to the broker for some service the brokerage provides you.

If you enter into a Compensation Agreement, the brokerage and its agents must also:

- Be available to receive and present written offers and counter-offers to you or from you.

The Compensation Agreement is not the same as an Agency Representation Agreement. A Compensation Agreement cannot be used to change or eliminate any Customer level services.

You May Become a Client

If a brokerage offers agency representation and you choose to sign a representation agreement, you will become a "Client". The brokerage and its licensees must act as your "Agent". They will owe you the following duties in addition to the basic Customer level services required of all licensees:

- Perform the terms of your agency agreement with skill and care;
- Promote your best interests in good faith, honesty, and fair dealing;
- Maintain the confidentiality of some client information, including bargaining information, even after the representation has ended.

Please Note: "Sold" prices of property are not confidential information, for either buyers or sellers, and may be disseminated by your Agent.

Each brokerage is required to have a written policy describing the types of agency representation it offers.

If you have any questions about the information in this brochure, contact:
Idaho Real Estate Commission
(208) 334-3285, Toll free in Idaho (866) 447-5411, TRS (800) 377-3529; irec.idaho.gov

These Are Your Agency Options

Agency Representation (Single Agency)

Under "Agency Representation" (sometimes referred to in real estate documents as "Single Agency"), your Agent may represent you, and only you, in your real estate transaction. (This representation can be modified in writing at a later date.)

If you are a seller, your Agent will seek a buyer to purchase your property at a price and under terms and conditions acceptable to you and will assist with your negotiations. If you make a written request, your Agent will seek reasonable proof of a prospective purchaser's financial ability to complete your transaction.

If you are a buyer, your Agent will seek a property for you to purchase at an acceptable price and terms and will assist with your negotiations. Your Agent will also advise you to consult with appropriate professionals, such as inspectors, attorneys, and tax advisors. If disclosed in writing, a brokerage may represent other buyers who wish to make offers on the same property.

Limited Dual Agency

"Limited Dual Agency" means the brokerage and its agents represent both the buyer and the seller in the same transaction. You may choose Limited Dual Agency representation with your brokerage because you do not want it to be restricted in the search for suitable properties or buyers. There are two options under Limited Dual Agency.

Limited Dual Agency without Assigned Agents As a Limited Dual Agent, the brokerage and its licensees cannot advocate on behalf of one client over the other. The licensees cannot disclose confidential client information regarding negotiations, terms or factors that motivate the buyer to buy, or the seller to sell, or advocate the interests of one party over those of the other. The brokerage must otherwise promote the non-conflicting interests of both parties, perform the terms of the agency agreements with skill and care, and perform other duties required by law.

Limited Dual Agency with Assigned Agents If your brokerage has obtained consent to represent both parties as a Limited Dual Agent, it may assign individual licensees ("Assigned Agents") to act solely on behalf of each party. Your Assigned Agent has a duty to promote your best interests, even if your interests conflict with those of the other party, including negotiating a price, and must maintain your confidential information.

The Designated Broker of your brokerage must remain a Limited Dual Agent for both Clients. The broker will ensure the Assigned Agents fulfill their duties to their respective Clients.

What to Look For in Any Written Agreement with a Brokerage

Any Agency Representation or Compensation Agreement should answer these questions:

- How will the brokerage get paid?
- When will this agreement expire?
- What happens to this agreement when a transaction is completed?
- Can I cancel this agreement, and if so, how?
- Can I work with other brokerages during the time of my agreement?
- What happens if I buy or sell on my own?
- Under an Agency Representation Agreement, am I willing to allow the brokerage to represent both the other party and me in my real estate transaction?

When you sign a real estate Purchase & Sale Agreement, you will be asked to confirm the following:

- 1.) This brochure was given to you, and you have read and understand its contents.
- 2.) The correct agency relationship, if any, between you and your brokerage.

Real Estate Licensees Are Not Inspectors You should not expect the brokerage or its licensees to conduct an independent inspection of the property. You should not expect your agent to independently verify any statement or representation made by a buyer, seller, or professional associated with your transaction. If the condition of the property is important to you, you should hire an appropriate professional, such as an engineer, surveyor, or home inspector.

RECEIPT ACKNOWLEDGED

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Your signature below indicates a real estate licensee gave you a copy of the Idaho Real Estate Commission's "Agency Disclosure Brochure."
Signing this document does not create an agency relationship or a contractual relationship of any kind.

Signature _____ Date _____

Signature _____ Date _____