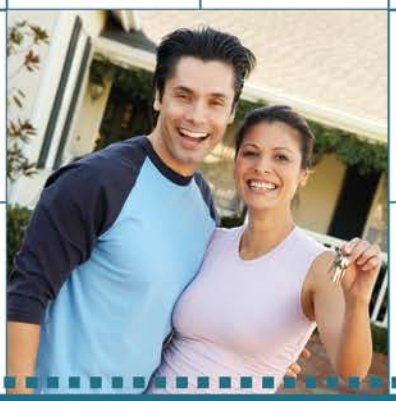


Accredited Buyer's Representative Designation Course

A Program by the Real Estate Buyer's Agent Council

Version 3.0

NATIONAL ASSOCIATION of REALTORS®
Official Designation

ABR®

© Copyright 2016, Center for Specialized REALTOR® Education

V 3.0

Note: The National Association of REALTORS®, the Center for Specialized REALTOR® Education, and the Real Estate Buyer's Agent Council (REBAC), its faculty, agents, and employees are not engaged in rendering legal, accounting, financial, tax, or other professional services through these course materials. If legal advice or other expert assistance is required, the student should seek competent professional advice.

Real Estate Buyer's Agent Council
430 North Michigan Avenue
Chicago, Illinois 60611

800-648-6224 (phone)
312-329-8632 (fax)
REBAC@Realtors.org
www@rebac.net

Contents

The Accredited Buyer Representative 1

Achieving the ABR® Designation Requirements 3

ABR® Elective Courses 5

Business Tools for REBAC Members 6

Course Learning Goals 12

Course Modules 12

1. Introduction to Buyer Representation 15

The Buyer's Advocate 16

How Buyers Start Searching for Homes 18

Your Role in the Age of the Internet 20

Your Unique Value Proposition 21

2. Forming the Buyer Relationship 25

First Meetings 26

Exercise: Looking Through Buyer's Eyes 27

Start Smart 28

How Is an Agency Relationship Formed? 32

How Will We Work Together? 36

Exercise: State of Agency Disclosure 37

What Are the Options? 38

What Are Your Duties and Responsibilities? 43

Are You in Sync with Your Brokerage? 54

Exercise: Turning Duties into Value 55

3. Buyer Consultations 57

The Buyer Consultation 58

Goals of a Buyer Consultation 59

The Ideal Home—Needs, Wants, Parameters 60

Price Parameters—Qualify the Buyer 66

Shaping Expectations—How Is the Market? 67

Do You Want to Represent This Buyer? 70

Buyers or Renters? 71

Is a Written Buyer Representation Agreement Necessary? 72

The Buyer Representation Agreement 73

Compensation Pop-Quiz! 75

Four Contracts in Real Estate 76
Compensation 77
Listings Not in MLS 80
When Buyers Won't Sign 82
4. Putting Buyer Representation Into Action 85
Finding the Right Property 86
When the Search Includes FSBOs 87
Realtors Property Resource® 89
Buyer Loyalty 92
Showing Property Protocol 94
Procuring Cause 98
Skill Practice – Meet Your Next Buyer 99
Fair Housing and the Buyer's Representative 103
Skill Practice Scenarios 106
5. Offers, Counter Offers, and Negotiations 111
Preparing the Buyer 112
Exercise: What Buyers Need to Know 116
Formulating an Offer 119
Contingencies 120
Prepare a Market Analysis 121
Skill Practice Scenarios 125
Presenting an Offer – Know the Rules 129
Multiple Offer Situations 133
Why Shouldn't I Use an Escalation in My Offer 136
Offers on REO Properties 137
Offers on Short Sale Properties 138
Counter Offers 139
6. From Contract to Close 141
Contract Contingencies 142
Mortgage Process 142
Inspections 145
Property Insurance 146
Flood Insurance 147
Title Insurance 147
No Changes in Financial Picture 148

Pre-Closing Walk-Through(s) 149
Data Security 149
When Appraisal Derails Closing 150
Prepare the Buyer for Closing 151
Exercise: Stay in Touch 155
Resources 157
Prospect ID Form 158
Sample Agency Disclosure and Brokerage Fee Agreement for Unlisted Property 159
Buyer Needs Assessment Worksheet 160
Buyer Information and Disclosure Checklist 162
True Cost of Homeownership 163
Make These Scripts Your Own 165
Ask Your Broker 168

Acknowledgments

The success of the Accredited Buyer's Representative (ABR®) designation program is driven in large measure by the standards of educational excellence that our course providers, instructors, and fellow buyer's representatives uphold. REBAC expresses gratitude and appreciation to the following ABR® Designees for their contributions, ongoing support, and commitment to excellence in buyer representation education.

- Adorna Carroll, DSA, ABR®, ABRM, CRB, GRI, SRES®, PMN
  Berlin, Connecticut
- Curtis Hall, ABR®, CRS, GREEN, GRI
  Chandler, Arizona
- David Kent, ABR®, ABRM
  Mt. Pleasant, South Carolina
- Lynn Madison, ABR®, ABRM, BPOR, GRI, PSA,SFR, SRS, RENE, SRES®
  Schaumburg, Illinois
- Eloise Eriksson Martin, ABR®, SRES®, GREEN
  Dallas, Texas
- Frank Mears, ABR®, ABRM, CRB, GRI, SRES®
  Augusta, Georgia
- Evan Fuchs, ABR®, AHWD, CRS, e-PRO, GRI, RSPS, SFR, SRS
  Bullhead City, Arizona
- Ginni Fields, ABR®, AHWD, CIPS, CRB, GRI, MRP, RSPS, SFR, SRES®, SRS, RENE
  Oceanside, California
- Holly Mayberry, ABR®, AHWD, GRI, RSPS, SFR, SRS
  Sedona, AZ

The Accredited Buyer Representative

NATIONAL ASSOCIATION of REALTORS®
Official Designation

ABR®

Welcome to the Accredited Buyer's Representative (ABR®) Designation Course. This two-day course is the foundation of the ABR® designation program. REALTORS® who earn the ABR® designation demonstrate:

- Commitment to protecting the interests of real estate buyers
- Experience in representing buyers and helping them find the right property for their specific needs
- Professionalism by completion of the designation program

The ABR® designation is conferred by the Real Estate Buyer's Agent Council (REBAC), a wholly owned subsidiary of the National Association of REALTORS® (NAR). With more than 30,000 members, REBAC is the world's largest organization of professionals who specialize in representing buyers in residential real estate transactions.

Students who complete this course are on the way to meeting the educational requirements for the ABR® designation.

Achieving the ABR® Designation Requirements

Becoming an Accredited Buyer's Representative (ABR®) designee is a multiple-step process requiring elements of active membership, continuing education, and real-world experience. *For anyone to be considered an ABR® designee they must first be an active member of the National Association of REALTORS® or similar cooperating association.*

1. **Complete the 2-day ABR® designation course**
   - Pass the 50 question exam at the end of the course with a minimum 80% score.
     - You will have 2 attempts to pass the exam if needed.
   - Become an official REBAC member.
     - The Real Estate Buyer's Agent Council (REBAC) is a wholly-owned affiliate of the NATIONAL ASSOCIATION OF REALTORS® (NAR). REBAC is the world's largest association of real estate professionals focusing specifically on representing the real estate buyer.
     - Upon successful completion of the ABR® course and exam an email will be sent to you with information on how to log onto ***REBAC.net*** and verify your first year of complimentary membership.
2. **Complete an ABR® elective**
   - One ABR®-approved elective course must be taken sometime before or up to 36 months after the initial ABR® designation course.
     - There is a broad range of options covering many subjects. A full list can be found on page 5 of this book or at ***REBAC.net/courses/elective-options***.
3. **Submit the ABR® application with documentation verifying 5 completed transactions in which you acted as a buyer's representative**
   - Any transactions closed before taking the ABR® designation course or closed within 3 years after completing to course are valid.
   - Submit the application documenting these transactions along with verification of the other requirements. This application will be emailed to you after completing the ABR® course and can also be found at ***REBAC.net/content/abr-application***.
4. **Maintain active membership in both NAR and REBAC**
   - To remain an ABR designee, you must pay all dues and remain an active member of NAR and REBAC.
     - Course enrollment includes a free one-year membership with REBAC. Second-year membership is prorated. Annual dues are $110 each year thereafter.

FAQs—What You Need to Know About the ABR® Designation

- **When can I access the members-only side of the REBAC website?**
  When the course provider (the school/board/franchise) notifies REBAC of your course completion, REBAC will e-mail you a membership confirmation. The **e-mail confirmation contains** your membership ID number, which you will use to log on to REBAC.net.

- **How do I find out if my designation application has been approved?**
  You will receive a notification by **e-mail from REBAC**. Depending on instructions from your local REALTOR® association, your ABR® Designation kit will be sent to your preferred mailing address.

- **How does REBAC know if I completed the Designation Course or an elective course?**
  The **course provider must notify** REBAC of course completion.

- **What are REBAC's membership dues?**
  1st year: free
  2nd year: prorated based on ABR® Designation Course completion date
  3rd year: **$110 annual** dues—with 5% discount if paid online before end of year

- **Where can I get an ABR® Designation application?**
  You will receive a designation application along with your **membership confirmation**. Or go to **www.REBAC.net** and login using your REBAC membership ID number. Select ABR® Application under Member Center.

- **Why am I receiving an invoice for membership dues before the free one-year membership expires?**
  REBAC membership dues are billed in November for the upcoming year and are due on **December 31st**. That means that you will receive a dues invoice in November for a **prorated amount of dues for the second year** less than $110, based on the month that you completed the ABR® Designation Course. For example, if you completed the ABR® Designation Course in June, you will receive an invoice in November for $55—half a year's dues for the second year. The amount billed covers the months remaining in the calendar year after your free membership expires and syncs your membership dues with REBAC's annual dues-billing cycle.

- **Where do I send the ABR® Designation application?**
  Submit the completed application by **e-mail to REBAC@realtors.org** or by mail to REBAC, 430 North Michigan Avenue, Chicago, Illinois 60611, USA.

- **How long does it take to process a designation application?**
  Allow REBAC staff **2 business days** from receipt to process your application.

- **When can I start using the ABR® Designation logo?**
  Once you receive **notification from REBAC** that your designation application has been approved, only then will you be able to use the ABR® logo.

- **Can I continue to use the ABR® Designation logo if I drop my REBAC or NAR membership?**
  No. You must **maintain both memberships.**

ABR® Elective Courses

19 courses/programs to choose from, and many count toward other designations and certifications. For course dates and locations go to ***www.training4RE.com*** or ***www.REBAC.net.***

Course Title and Affiliation Offered online	Duration	Also Counts Toward Designation/Certification
At Home with Diversity (NAR)	1 day	CIPS®, PMN℠
Buying and Selling Income Properties (CRS 204)	2 days	CRS®
Effective Negotiating for Real Estate Professionals (WCR)	1 day	PMN℠
Excellence in Professionalism: Gold Key Certification Course (Florida Only)	1 day	
e-PRO® Certification Program (REBAC)	2 days	e-PRO®
Generating Buyer and Seller Leads: Capture, Qualify, Convert (REBAC)	1 day	
Generation Buy (REBAC)	1 day	
Graduate, REALTOR® Institute (NAR program)		GRI℠
Harnessing the Power: Skill Based Performance Management (WCR)	1 day	PMN℠
Military Relocation Professional Course (REBAC)	1 day	MRP
NAR's Green Designation Program (REBAC)	3 days	GREEN
Networking and Referral Systems (WCR)	1 day	PMN℠
New-Home Construction and Buyer Representation (REBAC)	1 day	
Pricing Strategies: Mastering the CMA (REBAC)	1 day	PSA
Real Estate Investing: Build Wealth Representing Investors and Becoming One Yourself (REBAC)	1 day	
Real Estate Marketing Reboot (REBAC)	1 day	
Real Estate Negotiations Expert (RENE): Advanced Field Negotiations & Power Negotiator's Playbook (REBI)	2 days	REBI
REO Properties (REBAC)	1 day	
Home Sweet (Second) Home: Vacation, Investment and Luxury Properties	1 day	RSPS®
Seller Representative Specialist (SRS) Designation Course (REBI)	2 days	SRS
Seniors Real Estate Specialist (SRES®) Designation Course (REBAC)	2 days	SRES®
Short Sales and Foreclosures: Protecting Your Client's Interests (CRS 111)	1 day	CRS®, SFR®
Short Sales and Foreclosures: What Real Estate Professionals Need to Know (REBAC)	1 day	SFR®

Business Tools for REBAC Members

Access all of these tools and benefits at www.REBAC.net.

Sign in with your REBAC Membership ID number.

Tools for Working with Buyers

Here you will find business-building tools to assist you when working with buyers—all designed to help you deliver superior buyer-representation services. Make the most of out of these benefits by becoming a certified ABR® designee.

Denotes benefit that is only available to *certified* ABR® designees.

ABR® PowerPoint Template

- This PowerPoint template allows you to modify content, and add or delete slides to fit your business.

Consumer Videos

- Share these short videos that explain buyer representation and the benefits of using an ABR® designee.

Scripts

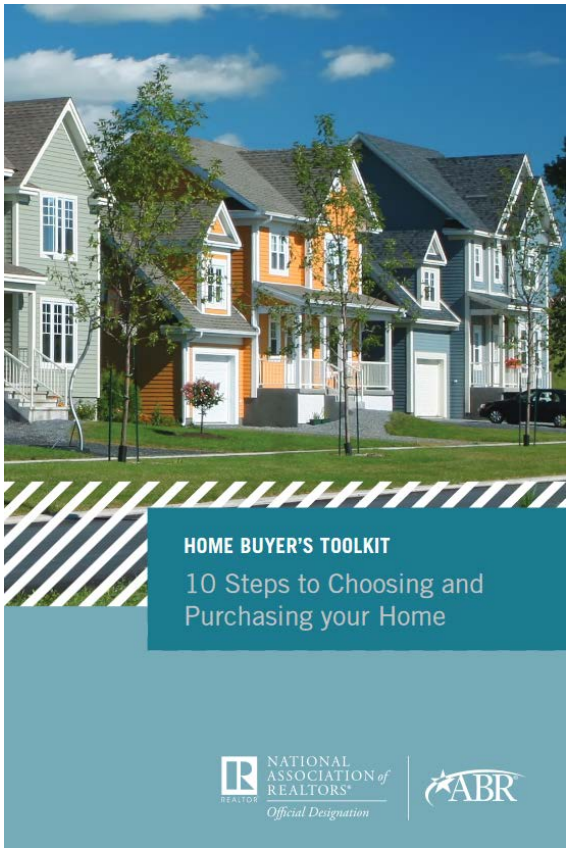
- Outlines designed to help you answer buyers' most commonly asked questions.

Home Buyer Seminar Guide

- A comprehensive resource for hosting your own home buyer seminars.

Home Buyer's Toolkit

- A 10-step quick-reference guide aimed at explaining the home buying process while highlighting the benefits of using an ABR® designated REALTOR.



Consumer One-Sheets

- Printable handouts on over 30 different topics to address during a buyer consultation or while working with buyer-clients.

- **Deductr**
  - A new technology that helps small and independent business owners automatically track and document every legitimate tax deduction. Learn more about Deductr at **deductr.com**.

Marketing Materials

Save marketing time and money and tailor professionally designed flyers, postcards, and brochures, featuring numerous themes and formats with your personal branding.

- **Logos & Brand Usage**
  - Download ABR® logos for your website, business cards, and other marketing materials

NATIONAL ASSOCIATION of REALTORS®
REALTOR®
Official Designation

ABR®

- **Postcards, Flyers, Brochures**
  - Professionally designed marketing materials showcasing the benefits of using a buyer's representative. Add your photo, contact information, and more. Customizable through the REBAC Print Shop

REBAC Print Shop

- Online resource that makes it easy for you to customize and order high-quality marketing print materials at a great price. The print shop also provides mailing services to streamline the process of distributing your content directly to the consumer from the printer.

Press Releases

- Fill in the blank templates for you to customize and distribute. Designed to promote your buyer-representation business to the public.

ABR® Facebook Business Splash Page

- Tell the Facebook world about your ABR® designation by installing this custom tab on your business or group page.

Publications

- **Today's Buyer's Rep Newsletter**
  - REBAC's monthly printed newsletter filled with ideas and tips for building your business.

- **TBR Hotsheet**
  - A weekly scan of online articles on timely issues and resources delivered to your e-mail inbox.
- **RISMedia Real Estate Magazine**
  - Monthly e-zine filled with news and resources on technology, marketing and the latest real estate legislation delivered to your email inbox.
- **REBAC Connection Webinars**
  - Online conferences with special experts covering relevant topics in real estate today.

Networking Referrals

ABR® Referrals & Networking Facebook Group

- Join your fellow ABR® designees in an exclusive Facebook Group, the ABR® Referrals & Networking Community. Meet fellow ABR® designees from all over the country, share referrals and best practices about working with buyers.

ABR® Online Referral Network

- An exclusive interactive online community, featuring forums, groups and blogs to share expert advice, best practices, and much more.

Find a Buyer's Rep' Referral Database

- **Peer Referrals**: Active directory of all ABR® designees built to refer well-qualified members in different areas.
- **Consumer Advertising**: Yearly ad campaign that promotes the importance of using an ABR® designated REALTOR® and directs consumers to the ABR® member directory.

Course Learning Goals

The goal of the 2-day ABR® Designation Course is to establish a foundation of training, skills, and resources to help you succeed as a buyer's representative. Let's look at what you can expect to learn over the next two days:

- Build a buyer representation business
- Value the services you perform on behalf of buyer-clients
- Increase confidence to work toward a signed buyer representation agreement if written buyer representation agreements are customary in your market
- Gain methods, tools, and techniques to provide the support and services that buyers want

Course Modules

The course material is organized into six modules based on the skills and knowledge you need to fulfill your value proposition as a buyer's representative. The learning objectives of the modules are:

- **Introduction to Buyer Representation**
  - Analyze the agent-buyer relationship and learn what's important to the buyer
  - Articulate a value proposition as a buyer's representative
- **Forming a Buyer Relationship**
  - Gain the confidence to present the case for buyer representation
  - Connect different relationships (client or customer) and forms of representation to duties and services provided
- **Buyer Consultations**
  - Conduct an interview and consultation session that leads to a signed buyer representation agreement and wins buyers' loyalty
  - Help buyers evaluate if they are ready to purchase homes
  - Help buyers establish their needs, wants, and price range
  - Shape buyer expectations of the market

- **Putting Buyer Representation into Action**
  - Search for properties that meet the buyer's needs and wants
  - Follow federal, state, and local Fair Housing laws when selecting and showing properties
  - Work with listing agents to arrange property showings
  - Prepare a buyer for property showings
  - Show properties
  - Apply safety procedures when showing property

- **Offers, Counter Offers, and Negotiations**
  - Assess the strengths and weaknesses of offers and negotiation positions of the buyer and seller
  - Help the buyer formulate an offer
  - Use valuation tools—RPR, AVMs, CMAs—to help the buyer evaluate price/value
  - Present your buyer-client's offer to the seller
  - Help the buyer formulate and implement a negotiation strategy
  - Guide buyers through the offer and counter offer process
  - Manage a multiple-offer situation

- **From Contract to Close**
  - Guide buyers through the required actions and processes between contract and closing

The course concludes with a 50-question multiple-choice exam. Successful completion is 80 percent or better—a total of 40 or more correct answers.

1. Introduction to Buyer Representation

NATIONAL ASSOCIATION of REALTORS®
Official Designation

ABR®

The ABR® Designation Course provides the skills and knowledge you need to build your buyer representation business. The course will help you find the winning combination for your marketplace, your business, and your personal style.

The Buyer's Advocate

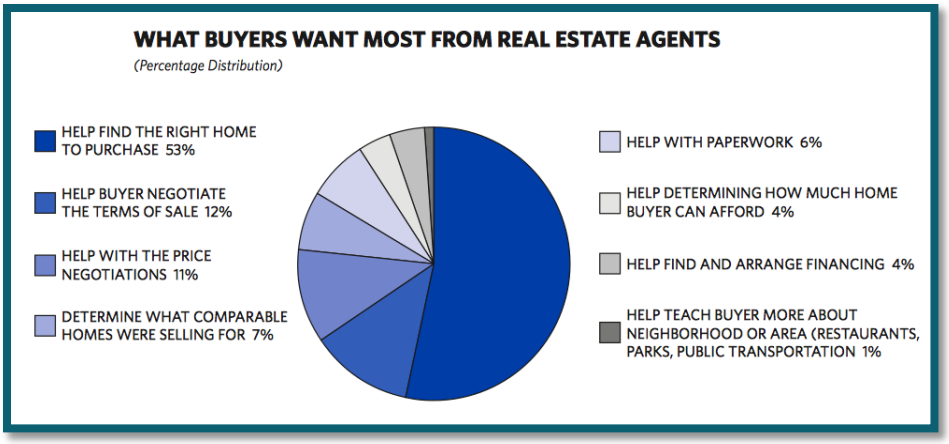
Buying a home is a complex process involving a major financial commitment. For most people, it is the largest single purchase they will make in their lifetime.

Beyond the financial commitment, homeownership is an important milestone in a buyer's life. It is an expression of lifestyle, as well as the place that will shape their family life for years to come. With so much at stake, buyers want a trusted guide who can help them make good decisions and minimize risks.

The buyer's representative owes the client fidelity and fiduciary or statutory duty in all transaction matters. That duty includes finding buyers the right property at the best price and terms, guiding them through the home-buying process, protecting their interests, and safeguarding confidential information.

As an experienced real estate professional, you know that getting the process right is crucial, but there is a lot more to putting a transaction together than following the letter of the law. Buyer's representative's find success by matching their services to buyers' motivations, concerns, and needs. If you are in the buyer representation *business*, you provide services, information, knowledge, and guidance for compensation.

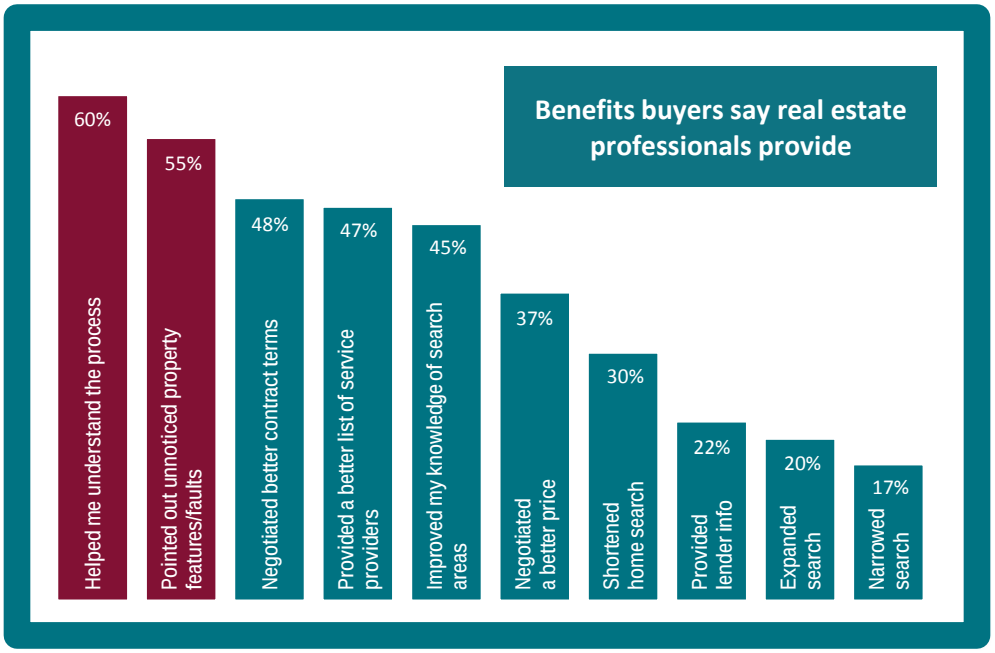
Where do you begin building a buyer representation business? Let's start by looking at what buyers say they would like you to do for them and the benefits they say you provide.



The services buyers want most from their agent include help finding the right home, negotiating price and terms, determining what comparable homes sell for, and help with paperwork.[1]

[1]Source: Profile of Home Buyers and Sellers, National Association of REALTORS®, www.realtor.org/Research

What Services Do Buyers Value?[2]



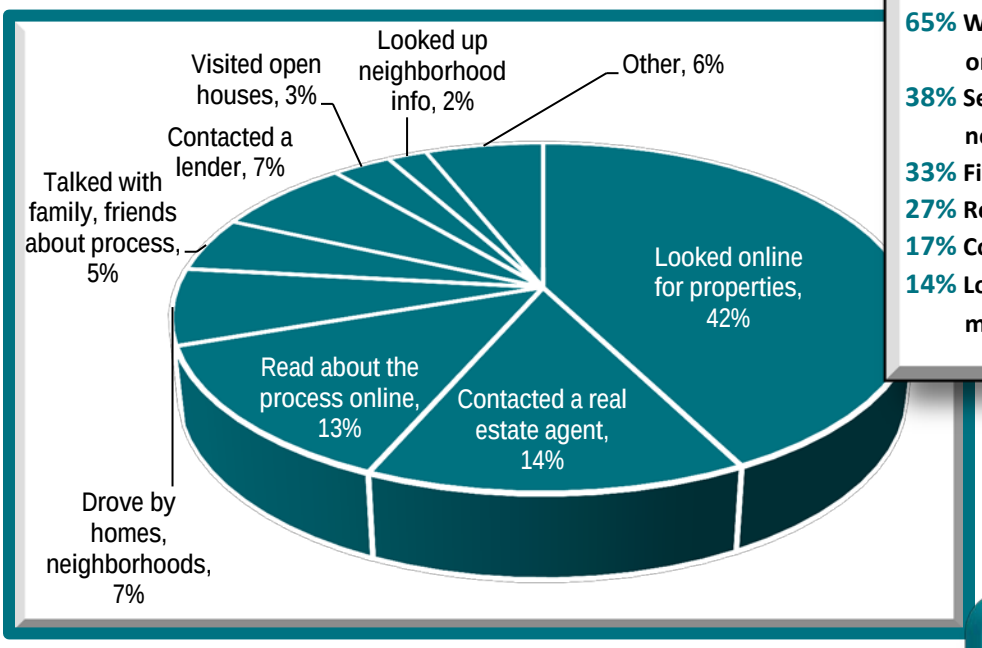
Do the services you offer match the services valued by the clients you are trying to reach and serve?

How Buyers Start Searching for Homes

NAR research shows that on average, buyers spend about 3 weeks looking at properties online before contacting a real estate agent. When they are ready to get serious about buying a home, they seek out expert guidance to help them find the right home and navigate the process.

[2] Ibid., page 17.

How Buyers Start the Home Search[3]

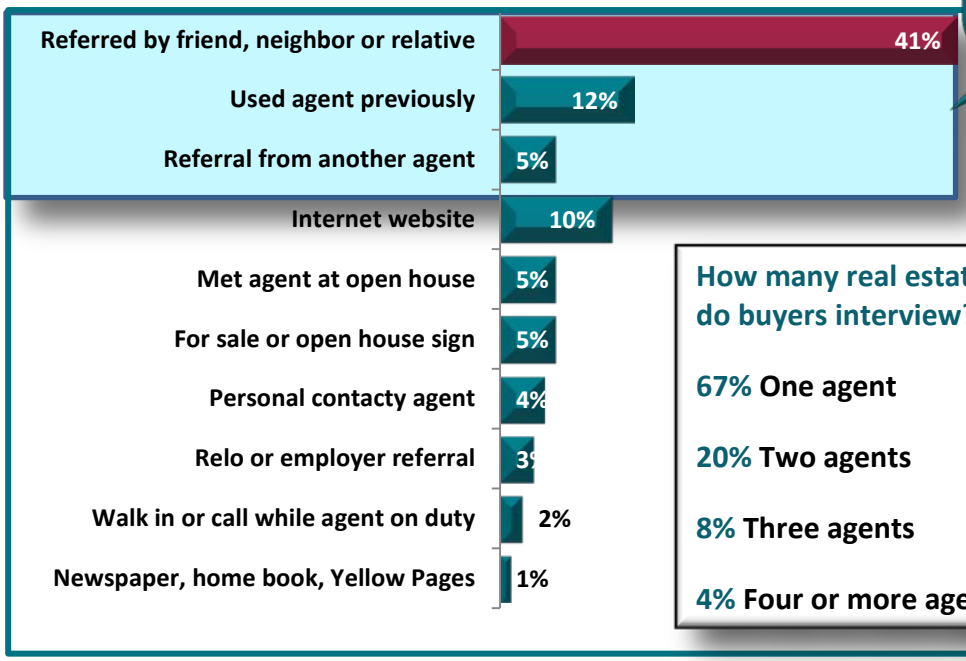


What do buyers do after searching on the Internet?

- **65%** Walk through homes viewed online
- **38%** See exterior of homes or neighborhoods
- **33%** Find a real estate agent
- **27%** Request more information
- **17%** Contact builder/developer
- **14%** Look for information on mortgage & home buyer tips

58% of buyer contacts involve people who know you.

How Buyers Found Their Real Estate Agent[4]

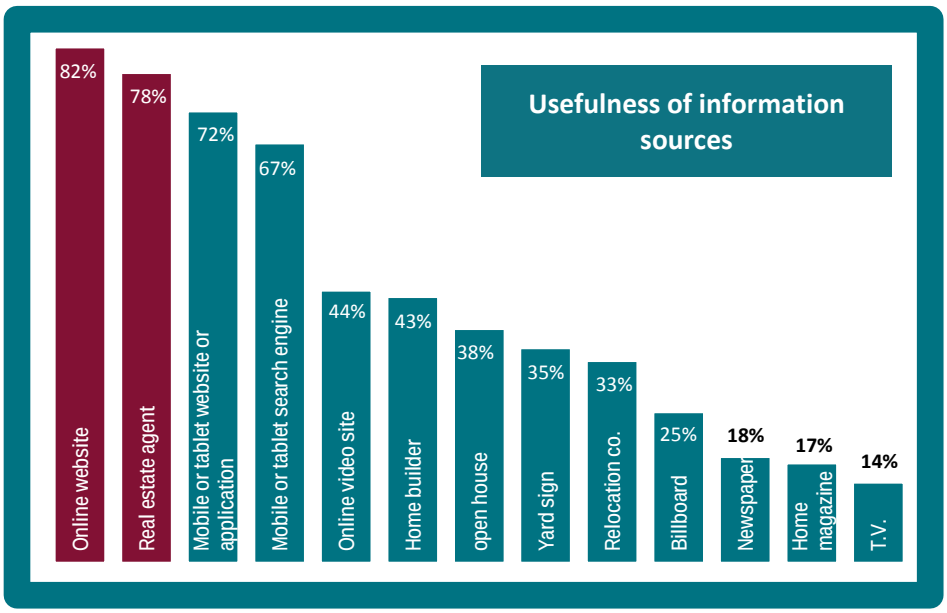


How many real estate agents do buyers interview?

- **67%** One agent
- **20%** Two agents
- **8%** Three agents
- **4%** Four or more agents

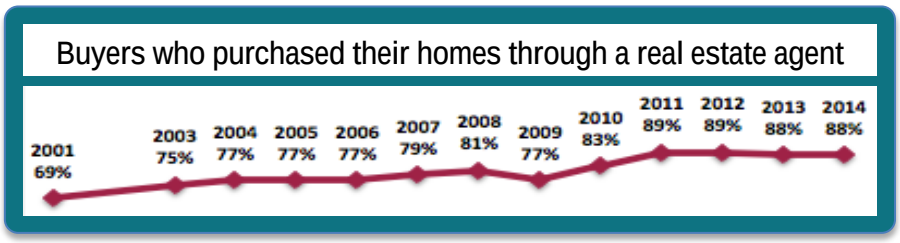
[3] Ibid., page 13.
[4] Ibid., page 13.

What Buyers Find Useful[5]



88% of buyers purchased their homes through real estate agents.

Buyers Who Used an Agent[6]



Your Role in the Age of the Internet

Ever feel like you're competing with the latest website or app?

While there is an abundance of information available to consumers today, that makes your guidance and interpretation more important than ever. Sorting out what is timely, valid, and valuable challenges even the savviest consumers.

The Internet has not replaced you; in fact, the number of buyers who purchased their homes through real estate agents has grown from 69

[5] Ibid., page 13.
[6] Ibid., page 13.

percent in 2001 to 88 percent in 2014.[7] At the same time, it's important to recognize technology and consumer preferences are moving targets.

Your Unique Value Proposition

Knowing that consumers see clear value in using a real estate professional, it's also important to make the distinction that real estate professionals are not all alike - and that's a good thing.

Think of it this way: if all real estate professionals were the same, what reason would the consumer have to choose you over everyone else?

Your differences – those things that distinguish you from other real estate professionals – stand to give you a competitive advantage by attracting those consumers who will most value working with you over a competitor.

Your *value proposition* is your market distinction expressed as the services you offer to buyers.

Three elements form the foundation of your buyer representation value proposition:

- **Education**: specialized training, like the ABR® designation, in the business of representing real estate buyer-clients
- **Expertise**: knowledge of the market and process plus skills like negotiations and communications
- **Experience**: what you learn day-to-day on the job

Successful buyer's representatives adapt and embrace change, leveraging the opportunity to add value and further differentiate themselves in the marketplace.

[7] Ibid., page 14

Ask Yourself

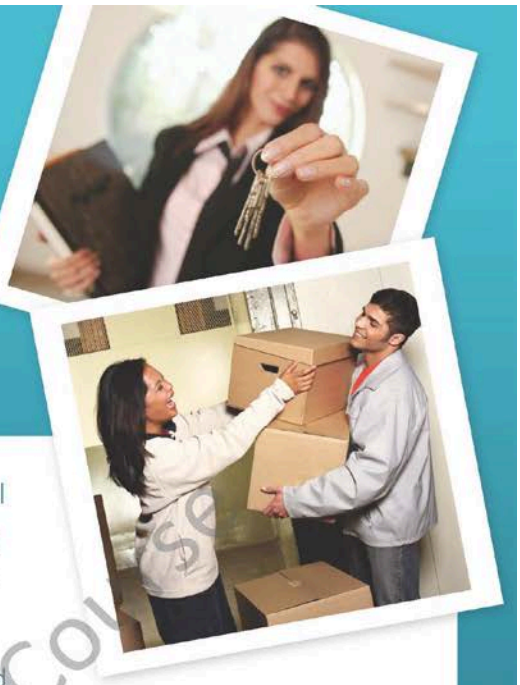
What do you offer in the following three areas that answers the buyer's question "What's in it for me?" (WIIFM)?

Education:

Expertise:

Experience:

Why Work with an Accredited Buyer's Representative?



Buying a home may be the largest and most complex financial transaction you ever undertake. If you're ready to buy a home, wouldn't you prefer to work with the most qualified real estate professional you can find?

An **Accredited Buyer's Representative** stands out in the crowd. If your REALTOR® holds the ABR® designation, you can trust that they have the extra edge when it comes to **KNOWLEDGE AND EXPERIENCE.**

Why?

The ABR® designation is only awarded to licensed real estate professionals who complete specialized training that gives them the edge in understanding a buyer's perspective and protecting and promoting their buyer-clients' interests. Before earning the ABR® designation, buyer's reps must also demonstrate proven experience in representing buyers. Further, they are committed to maintaining their professional edge by staying current on the latest issues and trends in buyer representation.

When you work with an ABR®, you'll be served, not sold. Your interests become their interests. They'll make your home buying experience go as smoothly and successfully as possible.

You can expect your ABR® to:

- Understand your specific needs and wants, and locate appropriate properties
- Assist you in determining how much you can afford (pre-qualify your mortgage)
- Preview and/or accompany you in viewing properties
- Advise you in formulating your offer
- Help you develop your negotiating strategy
- Provide a list of qualified vendors (inspectors, attorneys, lenders, etc.) for other services you may need
- Keep track of every detail throughout the transaction—to closing and beyond

Not all buyer's representatives are equal. Only a buyer's rep who has earned the Accredited Buyer's Representative designation has made the extra effort to raise the bar, with additional training and experience. If you work with an ABR®, you can feel confident that you'll receive the highest level of buyer-representation services.

The ABR® designation is awarded by the Real Estate Buyer's Agent Council (REBAC), a wholly-owned subsidiary of the National Association of REALTORS® (NAR).

ABR® Designation Course

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

2. Forming the Buyer Relationship

NATIONAL ASSOCIATION of REALTORS®
Official Designation
ABR®

First Meetings

The first meeting with a potential buyer sets the tone for your agent-client relationship. Accordingly, it merits thoughtful planning on your part as the professional: What are your goals? What questions will you ask? What information will you provide?

Before addressing those questions, think about your last five buyers. How did they find you?

_____

_____

_____

_____

A Relationship is a Two-Way Street

No matter how you are introduced, it's important to consider the buyer's goals when first meeting. This is especially true when goals differ, which they often do at this stage of the process. After all, many buyers just want to get out and start house hunting.

Exercise: Looking Through Buyer's Eyes

Try looking at the home buying process through "buyer's eyes" and imagining their experience prior to contacting you. What sites have they visited? What do they know about you? What are their perceptions and concerns about the home buying process? Create a list of home buying experiences a buyer may have had prior to contacting you.

Start Smart

The first meeting sets the tone for the agent-client relationship. It gives you an opportunity to engage the buyer, find out about their situation, how far along they are in the process, and describe how you can help them find the right home.

Respecting Exclusive Agreements

Although we will discuss the entire buyer consultation shortly, it is important that you determine whether the buyer is in an exclusive agreement with another brokerage firm prior to moving forward with them. You might want to start with something like this:

- How long have you been looking for a home?
- How have you been doing that?
- Did any agents show you property?
- Did you see anything you liked?
- What kept you from buying it?

REALTOR® Code of Ethics
Standard of Practice 16-9

REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service.
(Amended 1/04)

- Why do I need to talk to a lender? I know what I can afford?

_____
_____
_____
_____
_____
_____

- I don't need to talk to a lender – I am paying cash.

_____
_____
_____
_____
_____
_____

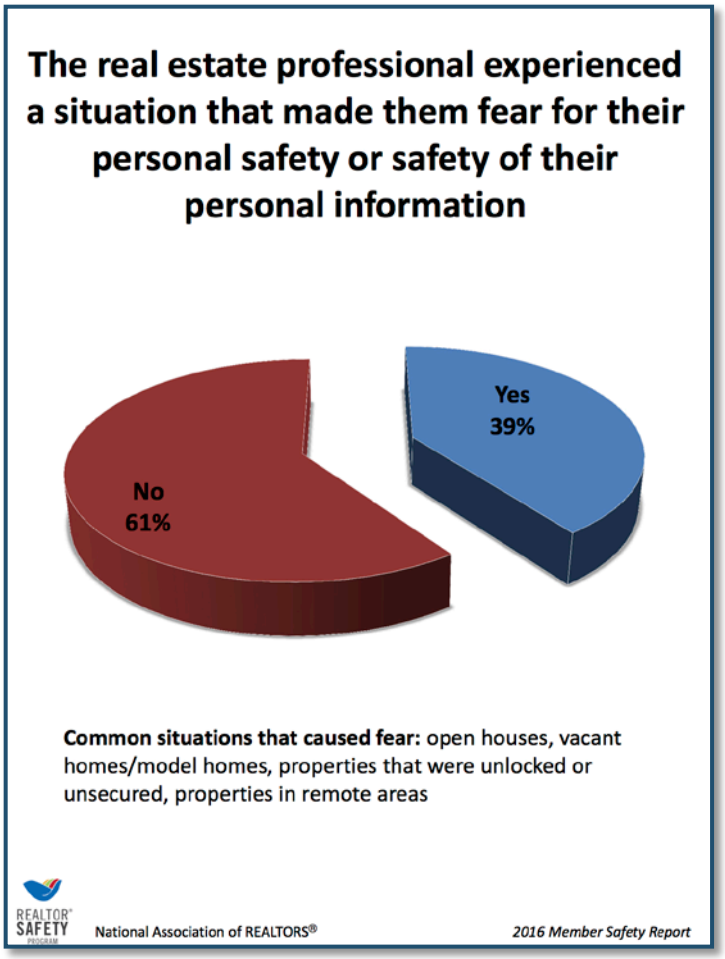
Safety

Important safety consideration: Meeting a stranger in a private place such as an empty house is dangerous, so first meetings should always take place in your office or a busy public place.

Buyers who are anxious to jump into house shopping may be resistant to changing course, so it's important to prepare for potential objections.

How would you respond to the follow: *I don't need to meet with you first. I already know what I want to see, just meet me there.*

Meeting prospects and showing property can place real estate professionals in potentially dangerous circumstances. Office policies should include safety procedures and cover risky situations that real estate professionals encounter every day.



Perhaps the best guide you can follow is your intuition. If a situation doesn't feel right, or a person makes you feel uncomfortable, listen to your gut feelings. At worst, you may be overly cautious, but you could be avoiding a very dangerous situation. For more information and resources on staying safe on the job, go to NAR's REALTOR® Safety webpage at *www.Realtor.org/topics/realtor-safety.*

Staying Safe in Everyday Situations[8]

- **Meeting a prospect for the first time**

  Risks: Meeting a stranger
  Precautions: Meet at the office. Require completion of a Prospect Identification Form. Ask for and photocopy ID or take a photo of the person. Introduce the prospect to a colleague.

- **Showing a property alone**

  Risks: Touring a vacant property with a stranger
  Precautions: Walk behind the prospect. Don't go into confined spaces like cellars and attics. Keep groups together. Let coworkers, friends, or family know where you are going. Use the buddy system. Schedule a call-in time—if you don't call in, the office knows to contact police. Use a smart phone app to preprogram a phone call as an excuse to leave an uncomfortable situation. Call the office and give a predetermined distress signal. Park your car for a quick getaway.

- **Open houses**

  Risks: Waiting in an empty house and anyone can enter
  Precautions: Note in open house publicity that ID is required. Jot down license plate numbers as lookers arrive. Introduce yourself to neighbors. Keep groups of people together. Use the buddy system. Schedule call-in times—if you don't call in, the office knows to contact police. Stow away your valuables. Open drapes and turn on all lights. Plan an escape route. Let local law enforcement know you are holding an open house. Park your car for a quick getaway.

- **Flashy personal marketing**

  Risks: Inviting the attention of criminals
  Precautions: Avoid provocative, glamorous photos in your marketing. Wear modest business attire and avoid flashy jewelry. Protect personal information on websites. Don't publish your home phone or address or information about your family.

- **Driving prospects around to look at houses**

  Risks: Driving strangers in your car
  Precautions: Drive in separate cars. Watch where you park. Make sure your car is not blocked so that you can make a quick getaway

[8] Adapted from "Real Estate's 6 Most Dangerous Everyday Situations," by Melissa Dittmann Tracey, *REALTOR® Magazine*, September 2010, www.realtor.org

without backing up. Screaming and running to a neighboring house may be more effective—if you know someone is at home.

- **Entering a vacant or foreclosed property**

  Risks: Encountering squatters, former owners, animals, hazardous conditions
  Precautions: Inspect the perimeter for signs of break in or occupancy. Don't confront squatters, occupants, or animals. Visit during daylight hours. Use the buddy system, your partner can wait in the car and keep in touch by mobile phone. Let coworkers, friends, or family know where you are going.

How Is an Agency Relationship Formed?

Express Agreements

An agency relationship may be in the form of an express agreement with both parties consenting to the agreement. Although agency agreements are usually written with the terms of the agreement spelled out, an express agreement can be made orally or by an affirmative action. For example:

- **Written**
  - Buyer representation agreement
  - Listing agreement
  - Right-to-lease agreement
  - Property management agreement
- **Oral or Action**
  - Spoken, handshake agreement to represent a buyer
  - Cooperating broker's acceptance of a listing broker's offer of subagency in a sale or leasing transaction

Implied Agreements

According to the law in many states, when the licensee acts or speaks like an agent and the consumer relies on those statements and actions, the licensee and the consumer have formed an agency relationship. In these states, agency relationships can result even unintentionally, accidentally, or inadvertently regardless of the conduct of the parties, or their intent, description, or understanding of the relationship. Key facts to remember about implied agreements include:

- An implied agency relationship may be created without the agent's knowledge as a result of the agent's actions and statements, thus causing the duties and obligations of agency to arise without the agent's consent.
- The conduct of the parties can create an agency relationship even if they have signed an acknowledgment denying the existence of such a relationship.
- The matter of implied agency is highly state specific. Please check your individual state licensing.

Implied agency relationships may occur when a seller's agent works too closely with a buyer-customer and does not make the proper disclosures.

Agency Disclosure and Confidential Information

You should make an agency disclosure consistent with state laws early in your interactions with prospective buyers, Many states require the disclosure to provide a written explanation of all legal forms of brokerage relationships available to consumers, even if the brokerage does not offer all of those options.

States may have different standards for the timing of disclosure but to be most effective, the disclosure must take place before any substantive discussions about real estate needs and financial capabilities, or exchanges of confidential information. In states that presume buyer agency (you are automatically the agent of the person with whom you are working), the explanation will differ from that in states where the buyers must sign a representation agreement. Why is this discussion of agency so important? Agents must caution prospects against sharing confidential information.

REALTOR® Code of Ethics

Standard of Practice 1-13

When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:

1. the REALTOR®'s company policies regarding cooperation;
2. the amount of compensation to be paid by the client;
3. the potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties;
4. any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g. listing broker, subagent, landlord's agent, etc., and
5. the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties. (Adopted 1/93, Renumbered 1/98, Amended 1/06)

Although state specific, an implied agency relationship can occur when the real estate professional acts or speaks like an agent and the buyer relies on the agent's actions and statements. Regardless of party's intent, description, or understanding of the relationship, conduct can create an agency relationship—even if the parties have signed an acknowledgment denying the existence of such a relationship.

Are you a Secret Buyer's Agent?

You might be a secret agent if you:

- Talk and act like a buyer's representative without clarifying the relationship
- Avoid discussing a representation agreement because you don't want to pressure a buyer into signing anything
- Rely on your state's default agency position
- Assume that buyers know you're "on their side"
- Leave the nature of the relationship vague because of discomfort about discussing disclosures and compensation
- Delay signing a buyer representation agreement until the buyer is ready to make an offer

Performing client-level duties without full disclosure and, preferably, a signed agreement, opens the door for a range of conflicts, misunderstandings, lost income, and potentially serious legal consequences. Aside from the legal ramifications, how can you expect buyers to be loyal if you keep the client relationship under wraps? You miss the opportunity to showcase your services as the buyer's advocate.

What is your agency relationship at first contact?

- At open house: _____
- Contact by phone: _____
- Internet: _____
- In-person consultation: _____

How Will We Work Together?

Starting off the interpersonal relationship on the right foot eases the next step—the contractual relationship. The nature of your first meeting, the buyer's previous search efforts and priorities, and information gathered during the consultation all point to the type of relationship you'll establish with a buyer. Only when you are working with the buyer as a client can you offer the full range of services that buyers want. The services buyers value most—express an opinion about property value, evaluate properties, help negotiate—can be offered in only an agent-client relationship.

Your representation relationship with a buyer-client and how you will work together is determined by:

- **State law**: State real estate laws regulate the relationships between agents and clients. Some states assume that a real estate professional is the agent of the consumer with whom he is working unless the agent specifically states otherwise. Some states allow a non-agency transaction facilitator approach; the real estate professional helps a buyer and seller reach an agreement, but does not represent either party as a client.
- **REALTOR® Code of Ethics**: References to applicable Code of Ethics articles and standards of practice are noted throughout the course.
- **Office policy**: Within the parameters of state laws, your broker's business policies can specify the type of agency relationships the company offers.

Exercise: State of Agency Disclosure

Effective agency disclosure takes place BEFORE substantive discussions. Briefly discuss agency disclosure in your state, including when and how disclosure is made, what form(s) are used, and what constitutes "substantive discussions".

What Are the Options?

Buyer or Seller Only

Although the terminology may differ, the most straightforward type of relationship is single agency. The agent represents only the buyer or only the seller—or the landlord or tenant—not both. Some brokerages keep things simple by practicing only buyer agency or only seller agency.

Dual Agency

Depending on state laws, the dual agency can occur when:

- Buyer-clients are interested in properties listed by their broker or agent.
- Two buyer-clients are interested in the same property. Exclusive buyer's agents try to avoid this situation by limiting the number of buyer-clients that they work with at a one time.
- Two agents in the same office represent the two parties to the transaction.
- A listing agent works too closely with a buyer then who assumes the listing agent is looking out for the buyer's interests.

Dual agency is inherently conflictual. The duties of confidentiality, undivided loyalty, and full disclosure cannot be reconciled between two clients. For example, the duty to a buyer-client of confidentiality compromises the duty to the seller of full disclosure.

Undisclosed dual agency - for example, when a listing agent's conduct creates the impression of working on behalf of the buyer - is illegal.

Disclosed Dual Agency

Disclosed dual agency is workable, but only if a timely, meaningful, and written disclosure is made, and both the buyer and seller consent. Most commonly, the brokerage company asks the buyer and seller to help the resolve the conflict by allowing a modification of fiduciary duties, or acknowledging the duties required of a dual agent. In either case, the buyer and seller must accept a reduced level of service.

In some states, an agent should not, however, try to obtain a blanket consent to disclosed dual agency before the situation arises. When a potential dual agency situation does occur, informed consent should be sought before the property is shown (unless otherwise provided by law). Verbal consent, if permissible, should be confirmed in writing when the purchase offer is submitted.

Realtors® Code of Ethics
Standard of Practice 1-5

REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. (Adopted 1/93)

- **A disclosed dual agent can:**
  - Provide property information to the buyer
  - Disclose material defects
  - Help the buyer compare financing alternatives
  - Provide information on comparable properties to help both parties make a good decision on price

- **A disclosed dual agent cannot:**
  - Discuss motives of the buyer or seller
  - Disclose confidential information about either buyer or seller without permission
  - Recommend or suggest a price
  - Disclose the lowest price the seller will accept or the highest price the buyer will pay, or the financial position of either without permission

Designated Agency

Designated agency (also known as appointed agency) eliminates the dilemma of in-house dual agency situations because both the buyer and seller continue in an agent-client relationship. In states that allow designated agency, the broker appoints one agent to represent the buyer and another agent to represent the seller. The broker's appointments specifically exclude all other agents in the office. Check your state laws, MLS rules, and company policy to determine if subagency is still offered in your marketplace.

Designated Agency: Protecting Confidential Information

When the designated agents for the buyer and seller work in the same office, maintaining confidentiality of information is a major issue. Written policies—implemented, enforced, and observed consistently—prevent information leaks. Company policies and procedures should address the following:

- Sharing information at office meetings
- Office layouts—privacy when meeting with clients
- Access, maintenance, and destruction of electronic and paper files
- Posting information on websites, Twitter, text messages, and other social media
- Notices on bulletin and sales boards
- Staff training–especially those who work on transactions for multiple agents
- Access to locked filing cabinets
- Use and privacy of computer networks, passwords, data files, voice mail, and e-mail
- Fax machine privacy—can anyone in the office read incoming or outgoing faxes?
- Staff with whom the client may safely communicate

Subagency

Subagency was created as a way to address MLS cooperation issues, but it has virtually disappeared from real estate practice. The subagency concept held that when a listing was entered into an MLS, cooperating selling brokers and their salespeople by accepting the offer in the MLS became the subagents of the seller and agent. Because the seller paid the commission to the listing agent, who worked for the seller, it therefore followed that any agent who brought a buyer to the transaction also worked on behalf of the seller.

Non-Agency Relationships

What about transaction facilitators? Who do they represent? In some states, real estate agents may work concurrently with buyers and sellers in a non-agency capacity. The real estate professional acts in a neutral capacity to facilitate the transaction. Terminology and agent responsibilities vary from state to state.

- Transaction broker
- Facilitator
- Intermediary
- Statutory broker
- Coordinator

There are varying viewpoints on the pros and cons of non-agency relationships in the real estate transaction. Some argue that non-agency relationships are the fairest way to mitigate the risk of dual agency and protect buyers and sellers. Others assert that the motivation to limit risk robs buyers and sellers of the opportunity for fair representation.

3 Important Principles

All three of these principles are very state specific. Ask your broker or office manager how these legal principles apply where you do business.

- **Imputed knowledge**
  Under the theory of imputed knowledge, your broker, and possibly all other agents in your office, are deemed to have knowledge of the same facts about a particular property as you have. In states where imputed knowledge applies, office policy should provide procedures for communicating property facts to all agents. In designated agency situations, however, confidential information about clients should not be shared.

- **Imputed notice**
  Under the theory of imputed notice, informing an agent is the same as informing the agent's client, even if the agent never conveys the information to the client. For example, when the listing agent communicates an offer acceptance to the buyer's representative, it is the same as providing notice to the buyer. As a rule of thumb, inform your buyer-client of anything you learn about the property or seller. Imputed notice becomes critical when decisions depend on disclosure of material facts.

- **Vicarious liability**
  Under the theory of vicarious liability, the client may be held responsible for the actions or statements of agents and subagents, even if the client was unaware of those actions or statements. When applicable, agents should disclose the potential for vicarious liability so that clients understand the risks.

What Are Your Duties and Responsibilities?

The terms *client* and *customer* or *duties* and *responsibilities* may seem interchangeable, but there are important distinctions. Because the relationship between client and agent is legally binding even in an implied relationship, the agent has a *duty* to place the client's interests before those of any other parties.

However, an agent's duties to the client do not mean, however, that the facts of the transaction or the property may be concealed from or misrepresented to a customer. Agents have a *responsibility* to customers to treat them honestly.

Real estate agents work *for clients* and *with customers*.

Duties to Clients

Obedience
Loyalty
Disclosure
Confidentiality
Accounting
Reasonable care and dilligence

Responsibilities to Customers

Honesty
Accounting
Reasonable skill and care
Disclosure

Handy ways to remember the difference are the words "old car" and "hard."

Duties to Clients—Real World

Consider that as a buyer's representative, what you are selling is your services—not homes—even though the outcome of your relationship is a new home for your buyer-client. **The way you go about fulfilling your duties is your buyer representation value proposition.** Let's recap client duties and how they relate to the REALTOR® Code of Ethics and to communicating your value to your buyers.

Duties to Clients

Obedience: Follow all of your client's lawful instructions. Don't make decisions for the client or exceed your authority.
Code of Ethics Article 1: When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

Loyalty: Give your clients your undivided loyalty. The client's interests come first—before customers, service providers, or anyone else including you.
Code of Ethics Article 1 (see above)

Disclosure: Disclose affirmatively, fully, and honestly all information concerning the transaction and property that might affect the client's decisions.
***Code of Ethics Article 2*:** REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. (Amended 1/00)

Confidentiality: Do not reveal confidential information learned about clients or told to you by clients within the agency relationship.
Code of Ethics Article 1, Standard of Practice 1-9: The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-

agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law.

- **Maintain confidentiality**
  - Don't knowingly (during or following the termination of a client relationship) reveal confidential information about clients.
  - Don't use confidential information to the disadvantage of clients or advantage of others, including yourself.
  - Exceptions include: with the client's consent after full disclosure, compliance with a court order, prevention of a crime, or defense against an accusation of wrongful conduct.
    - Be cautious when giving listing agents feedback after a showing. Too much information could be harmful to your buyer. The negotiating process could actually start here.

Accounting: Safeguard money and property held on behalf of the client. Maintain records and provide a prompt accounting when requested of money and property received and paid out.
Code of Ethics Article 8: REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Reasonable care and diligence: Protect the client from foreseeable risks or harm. Recommend expert advice or assistance when the client's needs exceed the agent's expertise.
Code of Ethics Article 1 (see above)
Code of Ethics 13: REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the transaction warrants it.

What Is Reasonable Care and Diligence?

- **Include approved protective clauses in the purchase offer**
  - Explain the options for contingencies and protective clauses to include in the offer.
  - Advise the client on seller acceptance of or resistance to contingencies and protective clauses based on market conditions.
  - Advise the client that some protective clauses may require attorney review.

- **Prepare a comparative market analysis (CMA)**
  - Explain elements of the CMA to help the client make an informed purchase offer.
  - Ask clients to initial and date any CMAs you provide.
- **Provide home warranty information**
  - Inform buyers that a home warranty is an option and explain warranty coverage and benefits.
  - Inform the buyer that the warranty may be a negotiable item and may be paid by the seller.
- **Provide information about issues affecting value or resale**
  - Note aspects of the property that may impact value, such as lot size, dimensions, square footage, and shape.
- **Advise on additional charges and costs of ownership**
  - Verify costs and charges (in writing), such as property taxes, impact fees, assessments, local income taxes and other cost factors that could impact a buyer's decision.
- **Obtain a property disclosure from the seller**
  - Include a request for seller's disclosure as an offer condition.
  - Review the seller's disclosure with the buyer.
- **Have the buyer check on important issues**
  - Provide information on checking the sex-offender registry for the neighborhood.
  - Suggest the buyer talk to the neighbors prior to making an offer
- **Recommend inspections**
  - Present a list of types of required and optional inspections such as environmental, radon, heating and cooling, roofing, well water, plumbing, septic systems, and structural.
  - Advocate that needed repairs discovered during inspections be corrected at seller expense.
  - Remind clients that they are responsible for damage to the home done by an inspector.

- **Provide lists of other professionals**
  - Provide list of options for a home inspector, title company, insurance company, pest inspector, appraiser, mortgage lender, and other services.
  - State that the selection of other professionals is the buyer's choice.
  - Disclose any arrangements, including financial benefits you receive, with vendors and service providers.
- **Provide sources of information for factors that could impact future value and salability**
  - Zoning and additional restrictions: uses allowed and disallowed in the property from zoning or homeowner association restrictions.
  - Quality of title: research easements and restrictions that affect the quality of the title. A review and approval of easements and restrictions could be a contingency.
  - Schools: provide information sources for school performance ratings, even buyers without school-age children should consider how this data could affect resale value.
  - Future development: if you are aware of future construction approved for the area, advise the client on how to research the plans.
- **Inform your client of possible negative influences**
  - Clients should be informed of negative aspects like nearby landfills, toxic waste sites, manufacturing plants, sports stadiums, and agricultural operations that may result in odors, noise, nighttime illumination, traffic and parking problems, or other issues.
- **Inform your client of the sources of information**
  - Inform your client of the sources of information, especially if the information came from the seller or seller's representative and was not verified. Do not rely on verbal information from the seller or the seller's representative.

Discussion Question

What sources of information do you recommend to buyers?

Responsibilities to Customers

An agent's responsibilities to customers—**H**onesty, **A**ccounting, **R**easonable skill and **D**isclosures—can be remembered as HARD, as in it can be HARD to work with customers because they want to be treated like clients.

Honesty: Do not make statements or take actions that can result in fraud or misrepresentation. Ensure all laws and regulations pertaining to the transaction are obeyed.

Code of Ethics Article 1: When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

Accounting: Record money or property received and paid out and, upon request, provide an accounting. Safeguard money and property held on behalf of the customer.

Code of Ethics Article 8: REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Reasonable skill: Provide standards of practice and competence that are reasonably expected. Do not try to provide specialized professional services for a type of property or service outside your field of competence.

Code of Ethics Article 11: The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

Disclosure of material facts: Disclose material facts about properties. Disclose agency relationships and explain the difference between a customer and client relationship in a timely fashion so that customers can protect their own interests.
Code of Ethics Article 1: (see above)

REALTOR® Code of Ethics
Article 2

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. (Amended 1/00)

Determining the Level of Service Desired	
Needs Assessment	
Buyer Not Represented	**Buyer is Represented**
❒ Maintain Loyalty to **seller's needs**.	❒ Pay full attention to the **buyer's needs**.
❒ Tell seller all that you learn about buyers.	❒ Tell buyer all that you learn about sellers.
❒ Focus on the seller-client's property.	❒ Focus on expanding the range of choices to satisfy buyer's needs.
Property Selection	
Buyer Not Represented	**Buyer is Represented**
❒ Get the best offer for the seller-client.	❒ Find the best property for the buyer-client.
❒ Limit properties to listed properties only.	❒ Promote the buyer's search
❒ View new listings after buyer-client.	❒ First opportunity to view new listings.
❒ Show properties listed within buyer's affordability range.	❒ All properties are available and viewable, and the sale price is negotiable.
Viewing Properties	
Buyer Not Represented	**Buyer is Represented**
❒ Just the material facts.	❒ OK to give advice with facts.
❒ Protect the seller. Cannot help the buyer compare competing properties.	❒ Educate the buyer. Okay to compare competing properties.
Negotiating the Purchase and Sales Agreement	
Buyer Not Represented	**Buyer is Represented**
❒ Disclose only material facts.	❒ Give advice accompanied by facts.
❒ Negotiate on behalf of seller-clients.	❒ Negotiate on behalf buyer-clients.
❒ Strengthen the seller-client's negotiating position.	❒ Strengthen the buyer-client's negotiating position.
❒ Share all information about the buyer.	❒ Share all information about seller.
❒ Volunteer a CMA for the buyer only if it supports the seller-client's listing price.	❒ Provide price counseling for a buyer-client.
❒ Negotiate approved purchase agreement protective clauses to safeguard seller-client.	❒ Negotiate approved purchase agreement to safeguard buyer-clients.
❒ Suggest buyer financing alternatives that benefit the seller-client's interests.	❒ Suggest financing alternatives that may be in buyer-client's best interests.
❒ Continue services to seller-client during negotiations.	❒ Continue services to buyer-client during negotiations.
Follow-Up	
Buyer Not Represented	**Buyer is Represented**
❒ Attempt to solve problems to the seller-client's satisfaction.	❒ Attempt to solve problems to the buyer-client's satisfaction.

Why Work with an Accredited Buyer's Representative?

Buying a home may be the largest and most complex financial transaction you ever undertake. If you're ready to buy a home, wouldn't you prefer to work with the most qualified real estate professional you can find?

An **Accredited Buyer's Representative** stands out in the crowd. If your REALTOR® holds the ABR® designation, you can trust that they have the extra edge when it comes to **KNOWLEDGE AND EXPERIENCE.**

Why?

The ABR® designation is only awarded to licensed real estate professionals who complete specialized training that gives them the edge in understanding a buyer's perspective and protecting and promoting their buyer-clients' interests. Before earning the ABR® designation, buyer's reps must also demonstrate proven experience in representing buyers. Further, they are committed to maintaining their professional edge by staying current on the latest issues and trends in buyer representation.

When you work with an ABR®, you'll be served, not sold. Your interests become their interests. They'll make your home buying experience

You can expect your ABR® to:

- Understand your specific needs and wants, and locate appropriate properties
- Assist you in determining how much you can afford (pre-qualify your mortgage)
- Preview and/or accompany you in viewing properties
- Advise you in formulating your offer
- Help you develop your negotiating strategy
- Provide a list of qualified vendors (inspectors, attorneys, lenders, etc.) for other services you may need
- Keep track of every detail throughout the transaction—to closing and beyond

Not all buyer's representatives are equal. Only a buyer's rep who has earned the Accredited Buyer's Representative designation has made the extra effort to raise the bar, with additional training and experience. If you work with an ABR®, you can feel confident that you'll receive the highest level of buyer-representation services.

The ABR® designation is awarded by the Real Estate Buyer's Agent Council (REBAC), a wholly-owned subsidiary of the National Association of REALTORS® (NAR).

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

The ABR® designation is awarded by the Real Estate Buyer's Agent Council (REBAC), a wholly-owned subsidiary of the National Association of REALTORS®.

To learn more about REBAC and access various homebuyer resources, please visit www.REBAC.net.

ABR® empowered by REBAC

ABR® Designation Course

Customer or Client?

What's the difference?

In real estate transactions, buyer-clients are entitled to a higher level of service than buyer-customers. Becoming a client typically involves signing a Buyer Representation Agreement with a buyer's representative, who then owes you fiduciary duties. This means that your buyer's rep is expected to exercise discretion when acting on your behalf, including adhering to very specific responsibilities, obligations, and high standards of good faith and loyalty.

For example, if you're a client, a buyer's agent will seek to negotiate the most favorable transaction terms for you—and will not disclose any material facts about your situation that could hurt your negotiating position.

If, however, you are only a customer, a buyer's rep may not be in a position to answer even basic questions, such as "Why are they selling?" or "Is this home priced competitively?" This is because they are acting instead as a sub-agent for the seller.

YOUR SERVICES WILL VARY, DEPENDING ON YOUR STATUS.

If you are a CUSTOMER (no fiduciary relationship), an agent will:	If you are a CLIENT (fiduciary relationship), your agent will:
Maintain loyalty to the seller's needs	Pay full attention to your needs
Tell the seller all that they know about you	Tell you all that they know about the seller
Keep information about the seller confidential	Keep information about you confidential
Focus on the seller-client's property	Focus on choices that satisfy your needs
Provide just the material facts	Provide material facts as well as professional advice
Only provide price information that supports the seller's listing price	Provide price counseling based on comparable properties and their professional insights
Protect the seller	Protect and guide you
Negotiate on behalf of the seller	Negotiate on your behalf
Attempt to solve problems to the seller's advantage and satisfaction	Attempt to solve problems to your advantage and satisfaction

** Note that not every state requires a signed Buyer's Representation Agreement to create an agency relationship. In some cases, an agency relationship can be formed if both parties simply behave as if one exists.*

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

ABR® Designation Course

Choosing a Buyer's Representative

Questions to ask

When it's time to buy a home, it's also time to select a buyer's agent to represent your interests in this all-important transaction. But how do you choose one?

Here are some of the most significant issues to consider and questions to ask when interviewing your Accredited Buyer's Representative.

Interview Questions:

EXPERIENCE AND CREDENTIALS

How long have you been a buyer's agent? How long have you been an Accredited Buyer's Representative? What other real estate designations or credentials do you hold?

REFERENCES

Can you share the names and contact details for three past buyer-clients who can provide references?

KNOWLEDGE

What are your areas of specialized knowledge? Which types of housing or neighborhoods do you know best?

REPRESENTATION

Please explain what representation choices I have as a buyer. What is meant by fiduciary duties? Do you practice dual representation?

SERVICES PROVIDED

Please explain how you will assist me at each stage of the transaction. Do you have a written buyer representation agreement that details our obligations to each other?

COMPENSATION

How will you be compensated? If I hire you as my buyer's agent will I be subjected to any additional costs in my transaction?

FINDING PROPERTIES

Do you have full access to the Multiple Listing Service (MLS)? Will you try to find suitable properties beyond the MLS?

PERSONAL SUPPORT

Will you handle all aspects of my transaction, or will I be working with assistants? Who will be explaining the various forms, agreements and steps required to reach closing?

NEGOTIATING

Will you counsel me on a negotiating strategy and appropriate contingencies? How will you package my offer to the seller? Will you personally present my offer?

FINANCING

Will you provide guidance on affordability, mortgage options and how to choose a lender? Why should I consider becoming pre-qualified or pre-approved on a mortgage?

RELATED SERVICE-PROVIDERS

Can you provide referrals to providers of other services related to my transaction, including home inspectors, surveyors, movers, etc.?

ABR® Designation Course

Download a printable PDF version of this consumer one-sheet at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

Are You in Sync with Your Brokerage?

If the approach in your brokerage office is unwritten because, “everybody knows that,” asking the right questions may inspire development of written policies which will also benefit your colleagues. Ask your broker or office manager:

- ☐ What types of agency relationships do we offer and not offer?
- ☐ Do we have a statement of agency policy?
- ☐ What is the rationale for the company’s agency policy?
- ☐ What disclosures are required, when, and to whom?
- ☐ Do we have standard disclosure forms?
- ☐ Do we require exclusive buyer representation agreements?
- ☐ What is the maximum number of buyer-clients an agent can work with at one time?
- ☐ Is dual agency okay? Under what circumstances is it not?
- ☐ Do we offer designated agency?
- ☐ How are dual or designated agency implemented?
- ☐ How should the agent interact with the client or customer in each type of relationship?
- ☐ What pocedures are in place to assure client confidentiality?

Exercise: Turning Duties into Value

As discussed, agency disclosure should be made in a manner consistent with state laws and prior to substantive real estate discussions. The buyer consultation is the perfect opportunity to do this while showcasing the value of your services. For each fiduciary duty, create a value statement that answers the buyer's question: "Why should I work with you" while complying with agency disclosure requirements.

WHAT WE DO	HOW WE DO IT	HOW WE CONVEY IT
Identify Properties to Show		
Showing Homes		
Property Comparison		
Developing Strategies		
Structuring the Offer		
Presenting the Offer		
Negotiating		
Post Contract Coordination		
Follow-Thru to Closing		

3. Buyer Consultations

NATIONAL ASSOCIATION of REALTORS®
Official Designation

ABR®

The Buyer Consultation

When you meet a buyer-prospect for the first time, how can you convert that contact into a successful transaction that adds to your bottom line? Achieving a positive outcome requires two skill sets:

- **People skills** to foster an interpersonal relationship
- **Client-representation skills** in accordance with state agency laws, the REALTOR® Code of Ethics, and your broker's business policies

These two skill sets come together in the buyer consultation. The consultation process is your opportunity to show how a buyer representation commitment opens the door for you to fulfill your value proposition, by providing the services buyers want.

Goals of a Buyer Consultation

The interpersonal and contractual relationships come together during the buyer consultation. By the time buyers are willing to sit down with you for a consultation session, they have most likely moved beyond the "just looking" stage. They are ready to take action. Your interview strategy combines gathering and communicating information, advising on the buying process, and laying the groundwork for a productive buyer-client relationship. Although the real estate professional and buyer may start the session with somewhat different goals, the bottom line is the same for both—do we want to work together?

Real Estate Professional's Goals

- Build rapport
- Showcase your services
- Learn the buyers' needs and wants, financial situation
- Help the buyer form realistic expectations
- Obtain a representation commitment
- Plan a strategy for finding the right home

Decide if you want to work together

Buyer's Goals

- Get acquainted with the real estate professional
- Learn what the agent can do for them
- Describe the "ideal home"
- Learn about market conditions
- Obtain answers to questions and concerns
- Learn about the search and buying process
- Start looking for the right home
- **Decide if you want to work together**

Presentation Packet

- **Services described in terms of benefits**
- **Pledge of Performance**
- **FAQ—questions buyers ask**
- **REBAC materials—Home Buyer's Toolkit, consumer one-sheets**
- **Accolades—testimonials, statistics**
- **Bio and company brochure**
- **Agency disclosure form**
- **Buyer representation agreement form**

The Ideal Home—Needs, Wants, Parameters

With the myriad of property information resources online, buyers can get a head start—or perceive that they can—on needs assessment and property selection. Have you had the experience of buyers arriving at your office with a list of properties they want to see? So, why not just skip the needs assessment process and start lining up homes to view?

A Needs Assessment Worksheet (see sample next page) or Intake Sheet, much like the forms other professionals such as doctors and attorneys use, is a great tool for gathering information and making sure you don't miss anything.

By working through the process you'll learn about the buyer's:

- **Current living situation compared to the property they want to purchase**
  Ask: How does this compare with your current home? Is this a big change in your living situation?

- **Motivations**
  Ask: Why are you looking at this time?

- **Time frame**
  Ask: If we find the right property, are you prepared to make a decision now?

- **Decision making**
  Ask: Will anyone else help you make the decision?

- **Priorities**
  Ask: If a property meets all of your other needs but does not have (a desired feature), should I eliminate the property or would you like to see it?

The consumer one-sheet on page 63 can help focus a buyer's thinking about needs and wants.

Buyer Needs Assessment Worksheet

Name(s)		
Current Address:		
Phone Numbers:	Home: _____ Work: _____ Mobile:_____	Home: _____ Work: _____ Mobile: _____
Fax Numbers:		
E-Mail:		
Preferred contact method(s):	☐ Phone: _____ ☐ Mobile _____ ☐ E-mail: _____	

Family size: _____ Pets: _____

Currently: ☐ Own ☐ Rent ☐ Must sell to purchase?

Desired possession date _____

Mortgage: ☐ Prequalified ☐ Pre-approved

Lender: _____

Ideal Price:_____ Ideal Monthly Payment: _____

Ideal Location: _____

# of Bedrooms: _____
Minimum: _____

# of Bathrooms: _____
Minimum: _____

Lot size: _____

Garage: _____How many vehicles? _____

Parking Space: ☐ Boat ☐ Camper ☐ Bus/truck ☐ _____

Age of home:_____ Style: _____

☐ Eat-in kitchen	☐ Finished basement	**Special requirements**
☐ Separate dining room	☐ Fenced yard	☐ Day care facilities
☐ Family room	☐ Deck/patio	☐ Elder care
☐ Fireplace	☐ Pool	☐ Cultural activities
☐ Workshop	☐ Waterfront	☐ School requirements
☐ Home office	☐	☐ Sports/recreation
☐ Home business	☐	☐ Public transportation

The ideal home: _____
_____

How long have you been looking for a home? _____

How have you been looking? _____

Did you see anything you liked? _____

What kept you from buying it? _____

Have any agents shown you homes? _____

What was your relationship with the agent? _____

What did you sign with the agent? _____

If we cannot find everything in the price range and location you want, what would you consider compromising on? _____
_____

Are some features “deal breakers” that you won’t compromise on? _____
_____

Is there anything else I should know about your requirements? _____
_____

What Do You Want *and Need in a Home?*

Finding a new home can be exciting. But deciding what you truly want and need—and can afford—can be challenging. Making these decisions begins with setting priorities among many different preferences.

Most homebuyers invariably face trade-offs. Your buyer's representative can play a key role in helping you sort out your options. He or she can also offer important insights specific to your local market.

Here are many of the considerations you'll want to discuss with your buyer's rep:

BASIC HOME FEATURES

- Do you prefer a single-family detached home, townhome, condominium, or other type of property?
- Desired number of bedrooms and baths
- Preferences regarding kitchen, dining, family rooms, etc. and preferred home layout
- High-priority home features, such as kitchen appliances, fireplace, etc.
- Other types of rooms needed (e.g., a home office or a hobby space)
- Storage spaces (closets, basement, an outdoor shed, etc.)
- Need for a garage or parking space, and if so, for how many cars?

OTHER HOME PREFERENCES

- Ranch, two story, split level, etc.
- Age and style of home (Victorian, bungalow, modern, etc.)
- How important is energy efficiency or other green home features?

NEIGHBORHOODS/LOCATION

- Commuting considerations (to work, shopping, etc.)
- Proximity to desirable features (such as a community center, exercise facility, school, hospital, etc.)
- Views—how important is to find your ideal view (overlooking a park, for example) or avoiding a bad one (a busy highway)?

LOT CHARACTERISTICS

- Size and shape, including back, front and side yards
- Landscaping considerations—the need for open play areas, privacy, patio space, decking, etc.
- Home orientation—is it important for your home to face a particular direction?

LIFE AT HOME

- If you'll be sharing your home with children, pets, live-in parents or others, how does this impact your housing preferences? Both now, and in the future? (For example, pets may require a fenced-in yard; older parents may dictate one-floor living.)
- Proximity to neighbors

RELATED COSTS

- Homeowner association fees?
- Property taxes

TRADE-OFFS

- How much do you want to invest in a home beyond the purchase price, either financially or in terms of sweat equity, if you can't find exactly what you want?
- Are you willing to consider other neighborhoods that provide better affordability?

RESALE

- How long do you plan to live in this home? How does this impact the type of home you will buy, how much you'll spend, and your choice of location?

ABR® Designation Course

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

Am I ready to buy a home?

Your buyer's rep can help you decide.

The decision to purchase a home is a highly personal one, based on both tangible and intangible factors. Beyond your personal situation, local market conditions, financing costs, and future expectations must also be evaluated.

The following list of questions can help you decide if you are ready to move forward with a home purchase. Your Accredited Buyer's Representative (ABR®) can help you sort through these issues and provide essential local market perspectives.

PURCHASING CONSIDERATIONS

- If you purchase a home, how long do you expect to live there?
- What can you afford to pay each month for housing-related expenses?
- What are the total costs of home ownership? This may include:
  - Mortgage payments (based on various interest rate and term assumptions)
  - Property taxes
  - Homeowner's insurance
  - Utilities
  - Maintenance costs
  - Any other special fees?
- Do you expect these housing-related expenses to increase or decrease? (changes in interest rates may be a bigger factor than others)
- What additional expenses are required to complete a purchase? (closing costs, moving expenses, etc.)
- How much will your home ownership costs decline after adjusting for interest expense deductions and property taxes (if applicable)?
- Are local market prices favorable to purchasing? What are your expectations on future prices?
- Do you qualify for any special purchasing assistance programs that can help reduce the cost of home ownership?

RENTING CONSIDERATIONS

- If you are now a renter, what are your total housing expenses? (monthly rent, utilities, housing assessment, parking, etc.?)
- How does renting vs. buying factor into your long-term investing goals?

OTHER FACTORS

- What are your personal preferences regarding the type of housing you wish to live in? How does location factor into your housing preferences?
- How do you expect your personal situation to change, in terms of future housing needs?
- What are your expectations concerning future employment?
- What are your long-term personal and financial goals, with regard to housing?

ABR® Designation Course

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR empowered by REBAC

Alternative Buying Options

Is a distressed property right for you?

Distressed sales are a sad fact of the real estate market. While no one wants to see a homeowner lose their home, these properties also present unique opportunities for buyers. To determine whether you are a candidate for such a purchase, it's important to learn all you can about distressed properties—and to work with a qualified buyer's representative who can guide you through each step of these complex, non-traditional transactions.

Foreclosure is a process, with buying opportunities at each stage:

STAGE 1. PRE-FORECLOSURE –

a period of time that begins with the initial mortgage default and ends when the distressed property is sold.

STAGE 2. FORECLOSURE SALE –

when the property is auctioned to the highest bidder, someone who also meets the terms of the sale.

STAGE 3. REO (REAL ESTATE OWNED) –

if a foreclosure sale is not successful, property ownership is transferred to the lender.

WHAT IS A SHORT SALE?

This is a situation in which a seller owes more on their loan than a sale of the property will produce, and they are unable or unwilling to make up the difference at closing. The seller may or may not be in pre-foreclosure. Banks may consider a short sale to a new buyer to reduce their losses.

QUESTIONS TO ASK YOURSELF:

Your buyer's representative can give you specific guidance based on your situation and the type of distressed property you want to purchase. But for starters, consider these questions:

- Are you flexible on timing? Can you make a quick decision and/or accommodate months of possible delays?
- Is your purchase limited by any contingencies, such as needing to sell your current home first?
- Have you already secured financing?
- Do you have resources to repair and rehab the property, if needed?
- If you are buying the property for investment purposes, what is your action plan? Do you intend to rent or resell? Or perhaps inhabit the property until market conditions improve?

NEXT STEPS

Your buyer's representative can assist you further in answering these and other questions which will help you determine whether this path to homeownership is right for you.

ABR® Designation Course

Download a printable PDF version of this consumer one-sheet at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

Price Parameters—Qualify the Buyer

Establishing price parameters during the buyer consultation is an essential step that guides property selection and helps the buyer's expectations

The best course of action is to let a lender qualify buyers by means of a mortgage pre-approval. Pre-approval not only helps establish price parameters, it strengthens the buyer's negotiating position and facilitates closing the transaction. Potential credit problems that could derail the closing come to light. In fact, some real estate professionals ask buyers to meet with lenders and obtain a mortgage pre-approval prior to the consultation session. Other real estate professionals use the consultation process to discuss financing and provide a list of lenders that the buyer can contact.

Homeownership—the Big Picture

Part of the qualifying process is to ensure that your buyers are aware of the costs of homeownership. Although the lender will provide a good-faith estimate of the actual purchase costs, a discussion of the big-picture costs of homeownership:

- Helps buyers make informed decisions
- Reinforces the value of buyer representation
- Strengthens your relationship with your buyer-client
- Wins buyer-clients' respect and loyalty

For a *True Cost of Homeownership* checklist, go to Page 163 in the Resources section of this manual.

Shaping Expectations—How Is the Market?

Attention-grabbing headlines can sometime create an unrealistic picture of the market and a gap between market realities and buyer perceptions. That gap can be costly to you and the buyer in terms of time and opportunities lost. Sometimes buyers expect to grab properties at deeply discounted, pennies-on-the-dollar prices. Real estate professionals know the local market, and can align buyers' expectations with reality. Buyers who spend weeks or months looking at properties and delay making an offer can lose out; good homes priced right generally don't linger on the market. How do these national statistics compare to your local market?[9]

- **10 weeks**: median time buyers who work with an agent spend searching for a home.
- **3 weeks**: time buyers usually search before contacting an agent.
- **4 weeks:** median time on market
- **51 percent**: the percentage of homes that sell in less than 4 weeks (Northeast 43%, Midwest 48%, South 52%, West 57%).
- **62 percent**: the percentage of homes on the market for 4 weeks or less that sold at list price.
- **97 percent**: median sales price as a percentage of list price (Northeast 98%, Midwest 92%, South 97%, West 98%).
- **100 percent**: median percentage of asking price received for homes on the market 2 weeks or less.
- **25 percent:** percentage of homes on market for less than 1 week that sold for more than listing price.

[9] Source: *Profile of Home Buyers and Sellers*, National Association of REALTORS®, www.realtor.org/Research.

The A-A-I Buyer Consultation Session

Use the "A-A-I" Model to ask for information, answer questions, and inform on the process.

Ask:

- ✓ Buyer's motivations?
- ✓ Currently renters or owners?
- ✓ Home to sell before buying?
- ✓ Interview other buyer representatives?
- ✓ Working with other agents?
- ✓ Search efforts to date?
- ✓ Length of search so far?
- ✓ Which websites have been the most helpful?
- ✓ Properties seen and liked?
- ✓ What kept you from buying?
- ✓ Property needs, wants, locations, price parameters?
- ✓ Time frame, critical dates?
- ✓ Down payment and financing plans?
- ✓ Budget for mortgage payments?
- ✓ Potential financing issues, credit problems?
- ✓ Mortgage pre-approval?
- ✓ Eligibility for VA financing or other mortgage programs?
- ✓ Concerns about the process or market?

Answer:

- ✓ How will we communicate?
- ✓ How you will help find the right property?
- ✓ Sources you use to find properties?
- ✓ How will you identify "new on the market" properties?
- ✓ Will you help me find out about a property's condition?
- ✓ How you are compensated?
- ✓ Do you represent the sellers?
- ✓ What if I find a home on my own?
- ✓ How can I be sure you'll get me the best deal if your commission depends on the price of the property?
- ✓ What are the steps in the purchase process?
- ✓ Will you help me compare prices?
- ✓ Market conditions—buyers' or sellers' market?
- ✓ Can you provide a list of lenders, repair contractors, other services?
- ✓ Can you help me estimate how much I can afford?

Inform:

- ✓ Caution not to share confidential information before agreeing to work together
- ✓ Market conditions and realities
- ✓ Realistic expectations for property search
- ✓ Advantages of buyer representation
- ✓ Agency disclosure
- ✓ Your credentials, experience, specialties, and services
- ✓ Your performance guarantee, if offered
- ✓ Strategy for finding the right property
- ✓ Importance of punctuality for showing appointments
- ✓ Property viewing protocol
- ✓ Community information sources
- ✓ What to do if another agent approaches the buyer

My Pledge of Performance

Because I am committed to preparing you to be an educated buyer, I will:

- give you the most vital information on available homes
- keep you aware of changes in the real estate market
- arrange a tour of areas, schools and key points of interest
- provide neighborhood information on municipal services, schools, churches, etc.
- check applicable zoning and building restrictions
- disclose all known facts about properties I show you
- collect pertinent data on values, taxes, utility costs, etc.
- point out strengths and weaknesses of all properties you choose to view
- explain forms, contracts, escrow and settlement procedures
- discuss loan qualification and processing

Because I am committed to helping you save time, I will:

- provide ready access to all MLS listed properties
- assist you as needed on all unlisted properties
- help you select for viewing only those homes that fit your needs
- show you homes only in the price range most suited to your finances
- provide you a list of qualified attorneys, home inspectors or other service providers
- arrange for necessary property inspections

Because I am committed to helping you find the best value, I will:

- prepare studies of property values in chosen areas
- perform a market analysis on chosen properties
- discuss financing alternatives
- see that you get a complete estimate of all costs involved
- advise on offers on properties
- write and present your purchase agreement to the seller
- negotiate on your behalf

Because I am committed to you—my buyer–I will do all of this, plus:

- keep your personal information confidential at all times
- stay in touch with you from the day you start your search until the day you move in
- coordinate all aspects of the sale and closing
- be reimbursed with a commission only when we have a successfully closed transaction

Contact Information

Office phone: _____

Fax: _____

Website: _____

Mobile: _____

e-mail: _____

Agent Signature: _____ Date: _____

Courtesy of Lynn Madison

Do You Want to Represent This Buyer?

Do you encounter buyers who you may not want to represent? Be wary of buyers who can drain you of time and resources. You may want to think twice about the following types of buyers.

- **Unmotivated**
  - May not be in a position to buy now, but they want to get a "feel for the market and to see what's out there"
  - Say that they don't want to rush things and may not decide on a purchase for more than a year
  - Are reluctant to sign a buyer representation agreement
- **Potentially unqualified**
  - Will not seek a mortgage approval until you find them the home that meets their specific needs
  - State that they have credit problems
  - Lack adequate financial resources for the down payment, closing costs, and mortgage payments
- **Unrealistic**
  - Demand properties far below current market value
- **Inconsiderate**
  - Are habitually late, miss appointments, or treat you unprofessionally
  - Will not follow advice given in their best interests
- **Questionable loyalty**
  - Have family members who are real estate agents and will not sign a buyer representation agreement with you
  - Are working with several buyer's agents
  - Persist in negotiating directly with the seller or seller's agent.
  - Are dishonest with you
- **Ask you to perform unlawful acts**
  - Mischaracterize the use or occupancy of a property in order to qualify for more favorable financing
  - Make demands that violate Fair Housing laws, knowingly or unknowingly
  - Tell you that you shouldn't "look too closely" at W2 or 1099 tax statements

  - Take or damage a seller's property during a showing and expect you to "look the other way"
  - Want access to see homes without you

- **Potential conflicts of interest**
  - Want to purchase a property you own or have interest in

There are times when you decide to call it quits with a buyer. How can you say “you’re fired” without completely burning bridges? You could say:

- “It looks like you need more time to think through your decision. Let’s put things on hold for a while.”
- “I am sorry that I am not meeting your needs. It is probably best for you to work with someone else.”

Buyers or Renters?

In today's market you may meet prospects who want to buy but really need to become or remain renters. They may:

- Have experienced a distressed property sale or bankruptcy
- Be saving money for a down payment
- Have trouble repairing credit issues
- Fall short of qualifying because of stringent underwriting guidelines

Unfortunately, some agents may miss this opportunity because they don’t see the tenant relationship as potential future business. Consider tenant-clients as investments in future transactions. If you work with tenants and protect their interests as you would a buyer-client, they will refer business to you and remember you when they are ready to buy.

Is a Written Buyer Representation Agreement Necessary?

Both buyers and real estate professionals have reasons to postpone or sidestep discussion of signing a representation agreement. Consumers want to keep their options open and are wary of creating a contractual obligation, especially if they are in the "just-looking" phase. Before initiating a contractual relationship with a buyer, real estate professionals want to be sure the fit is right and the buyer is ready and able to complete the transaction. In fact, it is common practice for real estate professionals to take prospective buyers out to look at a few properties as a way to get acquainted and decide if they will work together.

If an agency relationship can be formed by words or actions, is a written agreement necessary? Some states require a written buyer representation agreement. In almost all states, a broker cannot enforce a claim for a commission against a buyer-client without a written representation agreement. You need to know your state's law on this important point.

When is the best time to ask buyer to sign a representation agreement? Brokers' office policies range from the initial consultation to contract signing. Agents who work with buyers as clients without a written agreement representation agreement are still obligated to comply with state laws and the REALTOR® Code of Ethics. Ultimately, the quality of service that a real estate professional provides creates and sustains buyer loyalty and productive relationships.

The ABR® Designation Course, however, focuses on three important aspects of buyer representation agreements:

- how buyer representation agreements serve the consumer and the real estate professional
- how to initiate the discussion of representation agreements with buyers
- how to create a mutually beneficial representation agreement

Brokers and their agents, working within the REALTOR® Code of Ethics and state law, must make business policy decisions about how the principles presented in this course are incorporated and implemented into day-to-day practice.

The Buyer Representation Agreement

The elements that should be part of the buyer representation agreement are:

- **Exclusivity**

  Will you be the sole representative of the buyer-client? Although this will vary according to state law and company policy, exclusivity protects the right of the buyer's representative to be compensated when the buyer finds a property. Generally, an exclusive agreement is better than a non-exclusive or open agreement.

- **Price, Property, Area**

  The description of the property states the client's requirements in general terms—such as a residential, commercial or rental property, or land—without being overly specific. Price, if it is addressed in the agreement, should be defined as a range that is broad enough to encompass all the properties within the buyer-client's parameters. Area should cover the market area of the buyer representative rather than a specific town or subdivision.

- **Duration**

  How long will the buyer be your client? The primary factor that determines duration is the buyer's time frame. Other factors may include your marketplace, desired property type, buyer's needs, and your broker's business policies. The agreement should not expire while the purchase is being finalized and closed.

- **Services**

  The description of services should detail the range of duties and tasks you are agreeing to perform as well as what is expected of the buyer-client. As a buyer's representative, specifying what you will not do, otherwise known as limiting scope, is just an important as spelling out what you will do. For example, will you include FSBOs in the property search?

- **Compensation**

  The buyer representation agreement should set forth the circumstances under which you will get paid, how much, and by whom. There are different modes of compensation available to buyer's representatives, and your office policy will likely delineate the options.

- **Consent to show properties to other buyers**

  State regulations may affect this, but generally such a provision, if

applicable, allows both you and other agents in your company to show the same property to other buyers.

- **Potential for a disclosed dual agency situation**
  This affects those in disclosed dual agency states and in companies that allow disclosed dual agency. If the possibility exists, it should be included in the buyer representation agreement. As noted earlier, however, the buyer should not be asked to provide upfront blanket permission for dual agency.

- **Nondiscrimination**
  Discrimination is unacceptable under any circumstance. All federal, state, and local statutes and regulations must be observed. Remember that under federal Fair Housing Laws it is unlawful to provide information about the race, color, religion, sex, handicap, national origin, or familial status of individuals in a neighborhood or building.

- **Protection Period**
  If the buyer purchases a home you showed them within a certain period after the agreement expires, you are due a commission.

- **Assignment by Buyer**
  Obligates the buyer to pay a commission to the brokerage company if another party purchases the property with the intent of assigning the contract to the buyer prior to closing or selling the property to the buyer after closing.

- **Cancellation**
  Under what circumstances and how can the buyer or the agent cancel the agreement?

Antitrust Warning

In order to discuss compensation concepts, we must talk about commissions. It's important to note that the following discussion deals with concepts and principles **not** specific numbers or percentages. Commission percentages, if discussed in class, are presented only as examples.

Compensation Pop-Quiz!

Test your buyer's representative compensation IQ.

1. It's okay to not show a property if the commission isn't high enough.

☐ True
☐ False

2. If you show a listing that is not in the MLS you need a written commitment from the listing brokerage to ensure you will get paid.

☐ True
☐ False

3. The buyer can ask a seller to pay the buyer's brokerage.

☐ True
☐ False

4. The commission rate offered in the MLS listing applies to any agents licensed in the state.

☐ True
☐ False

5. The buyer representative can use the purchase agreement to request a higher commission from the listing office only if they have an exclusive agreement with the buyer.

☐ True
☐ False

Four Contracts in Real Estate

Before beginning the discussion of compensation, it is helpful to review the four types of contracts typically used in real estate transactions. Understanding who the parties are to each agreement, and that only the parties can modify their agreements, helps to clarify the discussion of compensation.

- **Listing Contract**
  The listing contract is between the seller and the listing broker. It creates the relationship between the parties, establishes the duties of each, and establishes the terms under which the broker will earn commission. It also authorizes the listing broker to cooperate with and compensate cooperating brokers. At the time of listing, the agent must disclose to the seller how much compensation will be offered to cooperation brokers.

- **Buyer Representation Agreement**
  The buyer representation agreement is between the buyer and the selling broker. It establishes the duties of each and establishes the terms under which the broker will earn commission.

- **Offer of Compensation**
  The offer of compensation is between the listing broker and cooperating brokers, and is generally established through a multiple listing service. The listing broker determines the terms and conditions of the offer to compensate and the contract is formed when accepted by the cooperating broker. Acceptance occurs only through performance as the procuring cause of the sale.

- **Purchase Agreement**
  The purchase agreement (sales contract) is between the buyer and the seller. It establishes their promises and obligations to each other. The brokers and agents are not parties to the sales contract.

Compensation

A good principle to keep in mind is that regardless of the compensation arrangements, the buyer ultimately pays the buyer-representative's fee through the purchase price. If the buyer's representative is compensated through a commission split, it is true that the seller pays the listing broker out of the sale proceeds, and the listing broker shares the commission with the buyer's representative. But it's the buyer who puts the money on the table by funding the transaction.

A buyer representation agreement could contain language like:

> *If, during the term of this contract or the protection period, Buyer enters into a contract to acquire real estate and such contract results in a closed transaction, Buyer agrees to pay Broker a fee of ____% of the purchase price. The Broker will make every effort to collect the fee from the seller or the listing broker.*
>
> *If Broker is not being offered compensation as a cooperating Broker sufficient to satisfy Buyer's obligations, Agent will so inform Buyer prior to showing the property.*

Note that in all discussions of compensation the reference to buyer representative does not imply that the agent can be paid directly. Due to the various state definitions of broker—broker in charge, managing broker, etc.—we are using the term *buyer's representative* to mean the firm for whom the agent works. All compensation must flow through the brokerage company.

Compensation Options

- **Percentage of sale price**
  The most common approach is a commission split with the listing broker based on a percentage of the sale price. However, your clients are ultimately responsible for your fees. They should be informed that if the seller or seller's broker does not pay your fee, they are obligated to do so.

- **Flat fee**
  Rather than charging a percentage of the sales price as commission, the buyer representative agrees to work for the buyer on a flat fee basis. In most cases, the buyer representative will not take any compensation from the listing broker or the seller and the buyer will accommodate the payment of compensation.

- **Hourly rate**
  The buyer may compensate the representative through an hourly fee, similar to the way attorneys are compensated. The pay-per-hour arrangement may guarantee compensation for a minimum number of hours.

- **Retainer**
  A buyer representative could charge the buyer a retainer fee. State law would dictate how the retainer fee is handled relative to where it needs to be held.

Realtors® Code of Ethics

Article 16, Standard of Practice 16-1

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees, compensation or other forms of payment or expenses. (Adopted 1/93, Amended 1/95)

Realtors® Code of Ethics

Standard of Practice 3-1

REALTORS®, acting as exclusive agents or brokers of sellers/ landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. (Amended 1/99)REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. (Adopted 1/93)

Realtors® Code of Ethics

Standard of Practice 16-16

REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/04)

When the Offer of Compensation Doesn't Match

- The buyer representative can call the listing office and request additional compensation before showing the property. Any changes in cooperative compensation must be by agreement between brokers, not the agents.
- The buyer can ask the seller to credit the buyer at closing with the remaining compensation the buyer owes to his or her representative. In this case, the purchase offer should contain a provision such as:

  "Seller and/or any third party to the settlement and transfer of this property agrees to pay buyer X% of the sale price to settle their contractual agreement with their buyer brokerage at closing."

- The buyer could instruct the buyer's representative to reject the offer of compensation offered from the listing broker, and compensate the buyer's representative—or ask the seller to do it.

  A sample of the language might be:

  "ABC Realty rejects any offer of compensation made by the listing firm. Seller and/or any third party to the settlement and transfer of this property agrees to pay the buyer X% of the sale price to settle their contractual agreement with their buyer brokerage at closing."[10]

  - This rejection allows all parties, including the third party to the transaction, to understand that what is being rejected is the disclosed co-op portion of the fee only.

[10] Excerpt from the SRS – Seller Representative Specialist Designation Course – Adorna Carroll, Bruce Aydt and Steve Casper, partners of the SRS Council, LLP and SRSCouncil.com.

  - This ensures that the fee in the buyer agreement, worded as a seller concession in the conditions of sale, will be fulfilled so that the buyer client will not have any unforeseen risk for paying the buyer's agent.
- The buyer could choose not to view the property.

What if the offer of compensation is more?

What if the offer of compensation is more than what is in the buyer representation agreement? What if the seller or listing office is offering a bonus on the property?

- A buyer's representative must disclose any bonus or additional percentage of commission that would be received. If buyers find out afterward that you received a bonus or extra commission, they may wonder if you were truly acting in their interests.

- The commission issue could be addressed by showing a range in the representation agreement; for example, "*If the fee collected is between ____% and ____% of the purchase price, the Buyer's responsibility for compensation will be deemed to be satisfied.*"

Listings Not in MLS

MLS's require that all listings be submitted in a set amount of time. For example, some MLS's requirement is 72 hours. If the listing is NOT going to be submitted in that time frame, the seller must have signed an "Exempt Form" that explains the benefits of the MLS and the seller opts out of the submission.

- There is no offer of compensation made to the co-op broker if it is not in the MLS.
- You must get something in writing from the Listing Managing Broker offering compensation
- You should have the written offer of compensation prior to showing the property.

Can You Rebate Part of a Commission?

Some brokers promote commission rebates as a competitive edge. Other times, the buyer is short of cash and asks the agent to rebate part of the commission to help with closing costs. Is this legal and ethical? Brokers cannot pay a commission to an unlicensed person, but, if state regulations allow, they can rebate a portion of the commission to the *buyer.*

FSBOs

- Ask the seller to pay a commission for bringing a qualified buyer.
- Increase the price by the amount of your compensation and ask the seller to credit the buyer at closing so that the buyer can pay.
- Reduce the offer price by the amount of your compensation so that the buyer can pay your compensation directly per the terms of your representation agreement.

Alternatively, the buyer could include the following language into the purchase contract.

"Seller to pay Buyer 'an additional' X% of sale price for the buyer's agent/Firm at closing paid through the proceeds of the sale."[11]

VA Buyers

The U.S. Veteran's Administration does not allow a buyer to directly compensate a buyer's representative when VA financing is involved. If you are working with a VA buyer, your compensation can only be a commission split with the listing broker. The compensation percentage stated in the buyer's agreement cannot exceed the commission split offered by the listing broker.

When Buyers Won't Sign

Buyers may be reluctant to sign a representation agreement because they think it will limit their options and impose undue obligations. Although most buyers stick with the first agent they talk to, no one wants to feel pressured to make a commitment before they know if the arrangement will work out and if you can work together. How can you allay concerns but still make progress in establishing a buyer-client relationship?

"Do I need to sign an agreement before you have found me the right property?"

- **Short-term agreement**
  If a buyer is uncomfortable with a long-term agreement, offer a shorter term; for example, an agent-for-a-day agreement. The agreement can be extended if the buyer wants to continue.

- **Nonexclusive agreement**
  If the buyer doesn't want to be tied down to just one agent, it's okay to offer a nonexclusive agreement (if your brokerage policies allow it). However, the buyer should be aware of the drawbacks of such an arrangement.

- **Trial basis**
  Offer to take the buyers out once to view a couple of properties in order to get acquainted and see how you can help them. Be clear that an agreement will be required if you decide to work together.

- **Specific area**
  The terms of the buyer representation agreement could specify a particular area or neighborhood; the buyer is not bound by the agreement if they find a home outside of the specified area. The buyer should be aware, however, that such an agreement limits the services you can provide.

- **Permit the buyer to cancel**
  The agreement could include a cancellation clause if the buyer is dissatisfied with your services.

- **Offer a guarantee**
  Offer a performance guarantee that spells out what you will do and how you understand your duties. (A sample appears on page 69.)

5 Reasons to Sign a Buyer Representation Agreement

If you've started looking for a home—and a real estate professional to assist you—your buyer's representative may ask you to sign a Buyer Representation Agreement. What is this form? Why should you sign it?

A Buyer Representation Agreement is a legal document that formalizes your working relationship with a particular buyer's representative, detailing what services you are entitled to and what your buyer's rep expects from you in return. While the language used in the document is formal, homebuyers should view it as an important and helpful tool for clarifying expectations, developing mutual loyalty, and most importantly, elevating the services you will receive.

1. **Receive a higher level of service.** If you've formalized an agency relationship with a buyer's rep, you can expect to be treated like a client instead of a customer. What's the difference? Clients are entitled to superior services, relative to customers. While the details vary from state to state, and from one buyer's agent to another, you can generally assume that being a client means that you've formed a fiduciary, or agency, relationship with your buyer's rep.[1]

2. **Get more without paying more.** In almost every case, home sellers have already agreed to pay a buyer's agent's commission. If they haven't, you can ask your buyer's rep to avoid showing you any such homes. Or you can still view the home, knowing that you'll need to factor your agent's commission into any offer you may write. While buyers rarely pay real estate commissions, this is an important detail you'll want to discuss with your buyer's rep and clarify in their representation agreement.

3. **Avoid misunderstandings.** A Buyer's Representation Agreement clarifies expectations, helping you understand what you should and shouldn't expect from your buyer's rep, and what they will expect from you, which usually centers on loyalty.

4. **Agency relationships are based on mutual consent.** While most representation agreements specify a time period, they can be terminated early if both parties consent. Most buyer's reps are willing to end the agreement early if the working relationship isn't going well. Some buyer's reps also offer representation agreements for as little as one day, for the purpose of giving both parties a brief trial period to explore working together.

5. **Strength as a team.** When you and your buyer's rep work together within a formalized agency relationship, you have created a team dedicated to helping you achieve the best possible home-buying experience.

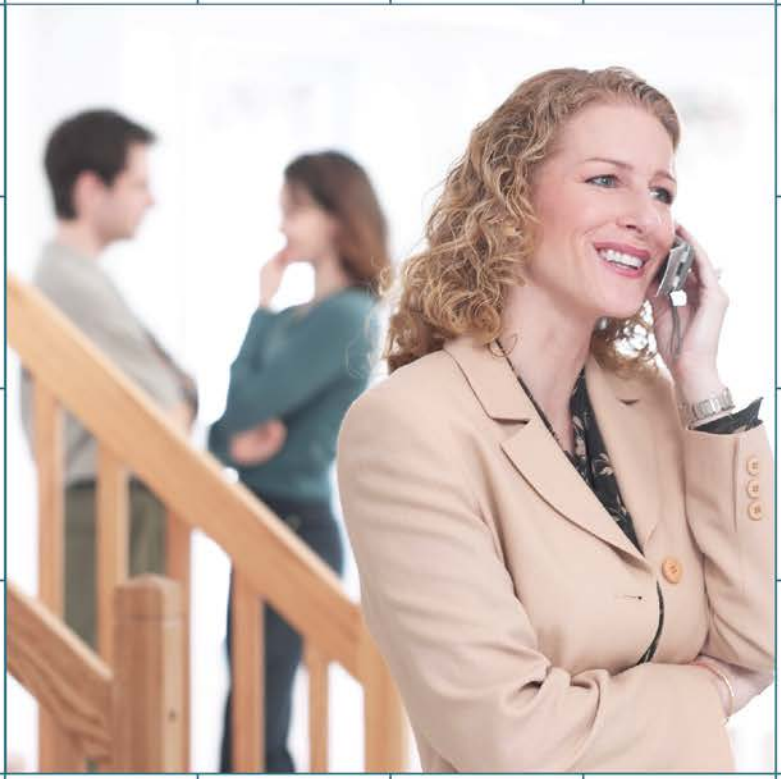
ABR® Designation Course

[1] Note that not every state requires a signed Buyer's Representation Agreement to create an agency relationship. In some cases, an agency relationship can be formed if both parties simply behave as if one exists.

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

4. Putting Buyer Representation Into Action



NATIONAL ASSOCIATION of REALTORS®
Official Designation
ABR®

Provided you want to represent the buyer after the initial interview process and depending on your state requirements for agency disclosure and the use of buyer representation agreements, the reality is that buyers will seldom sign an agreement or commit to giving you loyalty – or even work with you – if they do not understand what it is you will be doing for them. Consequently, you will need to explain what you will do for them BEFORE you ask them to sign an agreement.

Finding the Right Property

Looking at homes can feel a bit like speed dating. Buyers are not only looking at multiple properties in a short time frame, but also searching for the perfect match. And, like dating, sometimes it is love at first sight and sometimes finding the right home takes a lot of looking around and accepting tradeoffs.

Managing Expectations

Part of your job as a buyer's representative is to take as much stress as possible out of the house-hunting process. One of the best ways to manage stress is to manage buyer-clients' expectations of available homes and price trends, market realities, and your services.

- **Properties**
  Inform your buyer-clients that you will use your market knowledge and connections to find homes that fit their needs, wants, and price parameters. Encourage the buyer to focus on the things that are most important and be willing to accept some tradeoffs on lower priorities.

- **Market realities**
  Present a realistic picture of the current market. Caution buyer-clients that trying to time the market for rock-bottom prices or mortgage rates risks losing out on the ideal home. Good homes priced right don't stay on the market long.

- **Your services**
  Make sure that the services clients expect align with what you committed to provide. Avoid making promises you cannot—or do not intend to—keep. Refer to your pledge of performance (see page 69).

"No Stone Unturned"

Real estate agents who represent buyer-clients can do a "no stone unturned" property search and even promote the buyer's search through a variety of media and channels, including word of mouth. The buyer's representative has access to the entire market including FSBOS, REOs, and even off-market properties. And when it comes to your broker's new-on-the-market listings, the buyer-clients should get the first look. There are really no limits on the property search except those determined by the buyer-client.

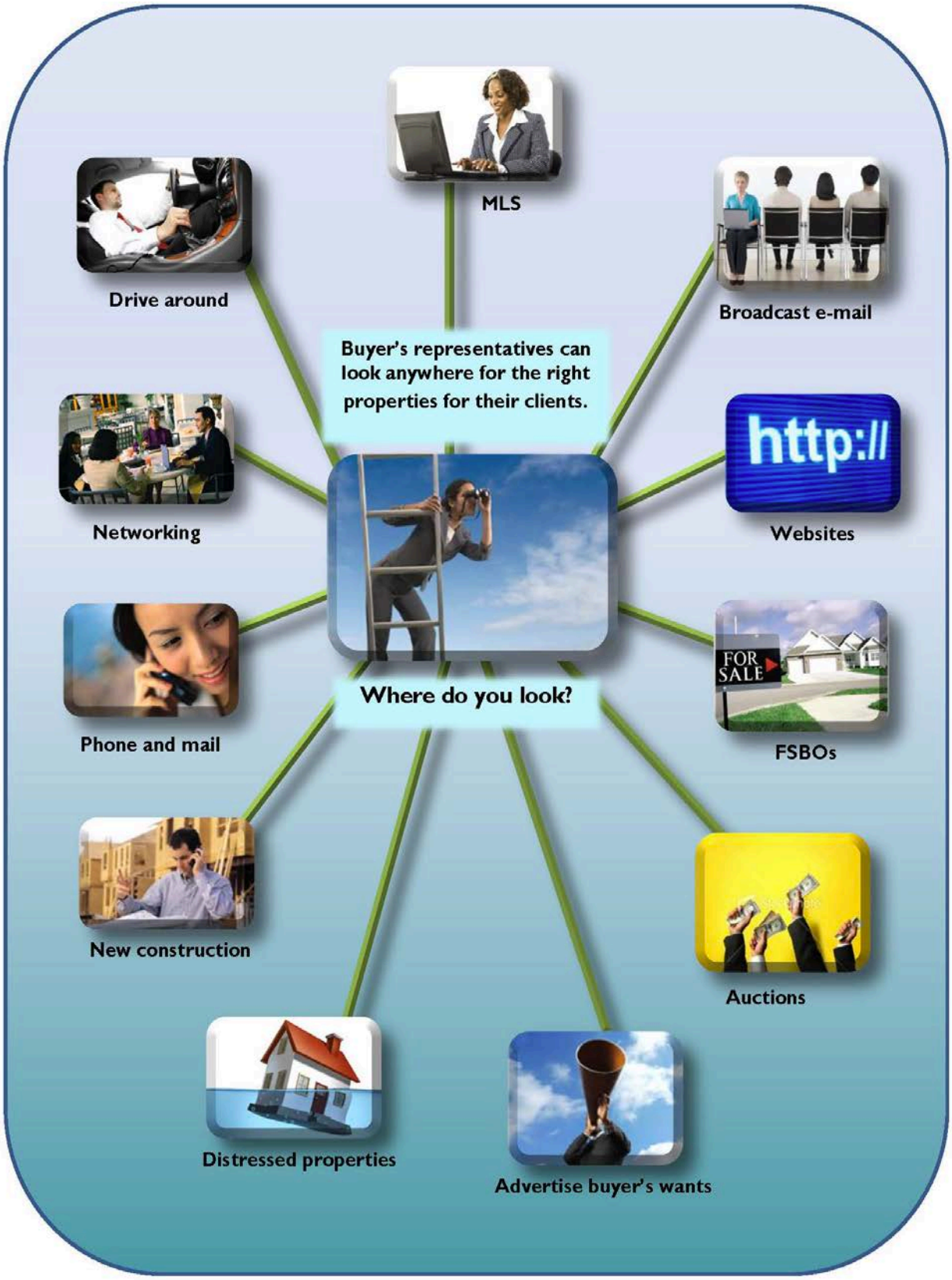
When the Search Includes FSBOs

Despite the difficulties of selling on their own, 9 percent of home sellers choose the FSBO route.[11] Most do so to avoid paying the listing broker's commission. Although FSBO sellers report difficulties attracting buyers, as well as getting the price right, approximately half do nothing to actively market their homes. Can you see how these factors might create an opportunity for you as a buyer's representative?

If your buyer-client is interested in a FSBO, the first hurdle is making a productive contact with the seller.

- During your first contact, inform the seller that you are a real estate agent with (company name) and that you have a qualified buyer, not a browser, who is interested in the home. Assure the seller that you are not looking to list the home.
- When you contact the seller you could say, "Are you cooperating with REALTORS®? What commission are you offering? Does the price you are quoting include the commission?"
- However, if your buyer is compensating you, such as through a flat fee, don't make compensation an issue with the seller; if the seller asks if you expect a commission, you can state that the buyer will compensate you.

[11] *Profile of Home Buyers and Sellers*, National Association of REALTORS®, www.Realtor.org/Research.


MLS
Drive around
Broadcast e-mail
Buyer's representatives can look anywhere for the right properties for their clients.
Networking
http://
Websites
Where do you look?
Phone and mail
FOR SALE
FSBOs
New construction
Auctions
Distressed properties
Advertise buyer's wants

Realtors Property Resource®

REALTORS® can tap into a unique decision-making tool to help buyers make informed choices and narrow the property search. Realtors Property Resource® (RPR®) is a member benefit, which means it is already included in the dues you pay to the National Association of REALTORS®.[12] What can RPR® do for you?

Does this sound familiar? You are driving around to view properties when the buyer spots an interesting property and says something like "What about that house? Could I see that one?" Imagine this scenario—while you are in your car with the buyer, you use your smartphone or tablet to search the home's address and download the RPR® Property Report, Mini Property Report, or Neighborhood Report, with a wealth of information (all public) like sales[13] and financing history, square footage, number of rooms, lot size, and other facts. On-the-spot access to RPR® Property Report data means you can present facts about the property immediately and determine if the home might meet the buyer's needs and wants. If the answer is yes, you can contact the agent or seller immediately to learn the asking price and arrange a viewing. Where sales data is publicly reported, RPR® aggregates data on recent and current sales to calculate an estimated value for the property; this AVM estimate can indicate if the home is over or underpriced in comparison to similar properties in the neighborhood.

You can view RPR® reports online as well as in downloadable PDF format. The full-color report, with your contact information and personal or company branding, takes only a couple of minutes to generate and arrives in the buyer-client's e-mail or on the client's smart phone or tablet. Some sample excerpts appear page 91.

The Realtors Valuation Model® (RVM®)

If your MLS shares its data with RPR®, reports include values calculated by the RVM® from real-time, real-world data. If you've ever compared price estimates from some of the online valuation sites like Zillow®, you know that the estimates can be quite wide—over or under real-world property values.

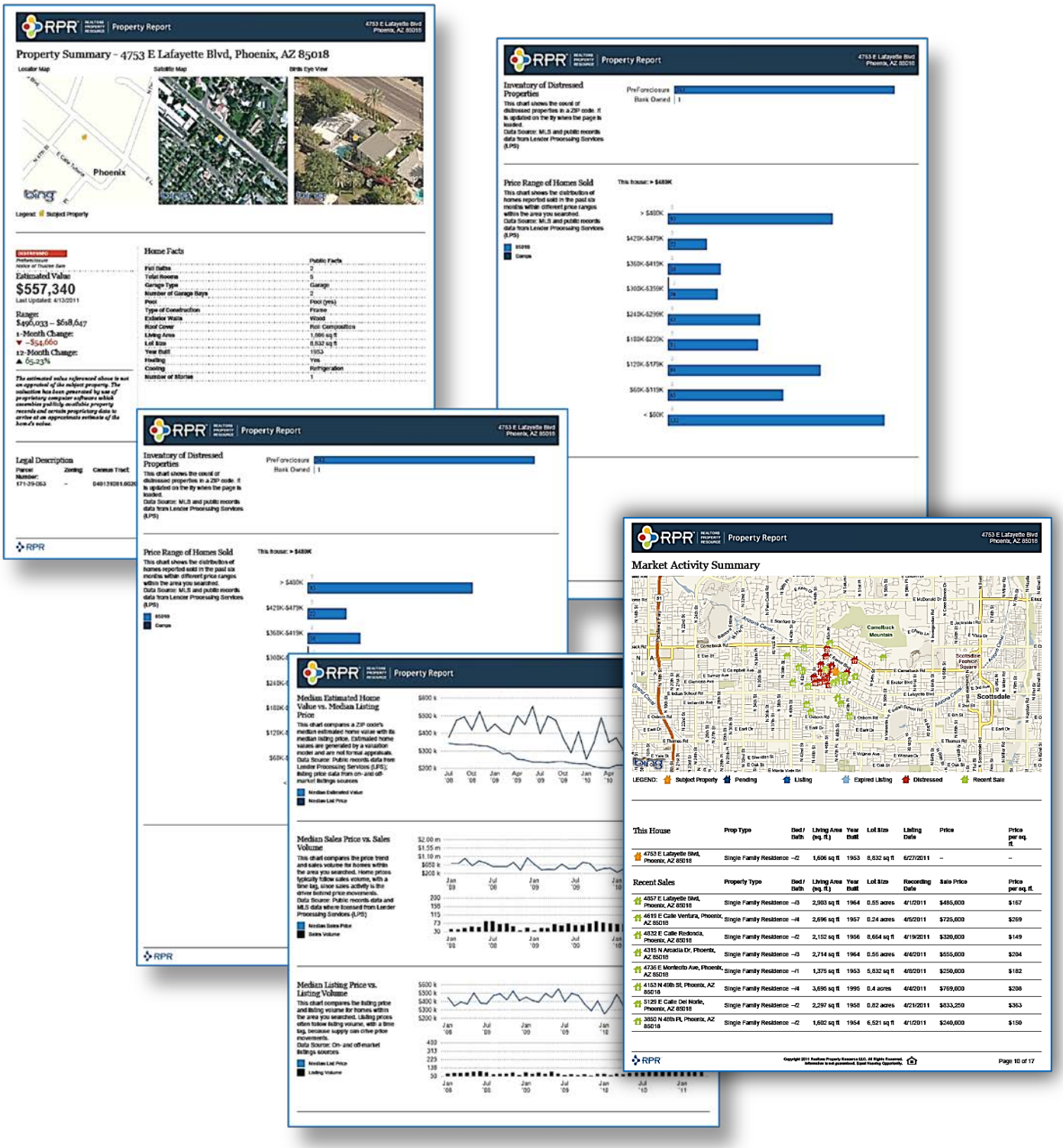
[12] RPR® applications and reports are available to members of the National Association of REALTORS® practicing in the United States.
[13] Except in nondisclosure states.

All REALTORS® have access to RPR® as a member benefit, but only those who participate in MLSs that share data have the benefit of the RVM®. If your MLS does not share data, value estimates are calculated by an automated valuation model using publicly available information on past sales. Find out if your MLS shares data, register, and take the RPR® application for a test drive at *www.narrpr.com*. You'll also find information on continuing-education credit training classes online and in classrooms, as well as free tutorials.

Sharing Information Responsibly

The ability to gather and share data by electronic means carries both a legal and ethical obligation to share information responsibly. Therefore, it is very important that you know who you are sharing information with and why. When providing RPR® reports to clients and customers, REALTORS® should emphasize the importance of treating the information respectfully and making sure it doesn't fall into the hands of someone with bad intentions.

Realtors Property Resource® Property Report



Buyer Loyalty

The representation agreement creates the contractual relationship between the buyer and the agent. However, as noted at the beginning of this chapter, the interpersonal relationship makes the agent and buyer into a team. Buyer loyalty is a two-way street, and it starts with the words and actions of the buyer's representative. Your pledge of performance is a powerful tool for building loyalty, because it is a narrative of what you will do and how you will treat the buyer.

Transparency of information, and your willingness to answer any of the buyer's questions and address concerns, will go a long way toward establishing a mutually loyal relationship. Transparency includes being frank about situations in which you would not get paid.

With so many sources of house-hunting information available, it seems inevitable that buyers will look around and research on their own. You can impress on buyer-clients the importance of calling you first whenever they want to see a property and explain why. What other steps can you take to prepare buyer-clients for these situations?

- **Open houses and for-sale signs**
  At open houses, advise buyers to inform agents that they are working with you and to provide your name and company affiliation. You could provide the buyer with a small supply of your business cards for this purpose. Caution buyers against signing any registration card or guest book, or revealing information that could weaken negotiation leverage. If buyers see a for-sale sign, ask them to note the listing agent's contact information and to call you to set up a showing. They should not be coerced into putting an offer on the property, regardless of what the agent sitting in the open house says.

- **Model homes**
  Like an open house, your buyer-client should inform the builder's sales representative that they are working with you. Caution against signing any registration card or guest book or visiting model homes if signs say "agent must accompany the buyer on the first visit." Purchasing a new home involves decisions about customization options. Inform your buyer-client that you can advise on evaluating the cost-benefit of various options and navigating the phases and process of buying new construction.

- **Print Media and websites**
  What if your buyer-client sees an ad that looks interesting and can't resist calling or e-mailing for more information? Coach buyer-clients to say upfront that you are helping them find a home. If the price is in range and the buyers want to see the property, say that you will make arrangements for them to see the property. Caution buyers that websites are not always up-to-date; unless the site reflects real-time data from the MLS, homes advertised on websites may already be sold.

- **FSBOs**
  Caution buyers not to just pick up the phone, call the number on the sign, and go on their own to see a FSBO property. It's not a safe thing to do. It can be a big waste of the buyer's time and give sellers the impression that no agent is involved.

- **Auctions**
  Explain that you can scope out properties in advance, do CMAs, and help the buyer develop a strategy to avoid getting caught up in a bidding rush. You can also help the buyer prepare for the auction terms like reserve bids and proof of funds. Just be sure you register as the buyer's representative before the auction.

- **Contact by another agent**
  Buyer-clients should politely inform other agents that they are working with you, thank them for their interest, and possibly suggest they contact you if they have a property they think may fit the buyer's needs.

- **Drive by listed property and the seller invites them in**
  Buyer-clients should politely refuse and tell the seller they need to contact you. You will then make an appointment to show them the property.

Showing Property Protocol

Before

- Provide the buyer-client with a recap of their needs, wants, and priorities in checklist format
- Provide an advance list of the homes to give the buyer-client an opportunity to drive by and check out the exterior and the location
- Provide a sample purchase contract so that buyer-clients can be prepared with required information when ready to make an offer
- If scheduling several hours of showings, make arrangements for rest stops and snacks
- Encourage clients to arrange a babysitter for children and leave pets at home
- Set expectations for appropriate behavior—remind buyer-clients that they are a guest in the seller's home
- Stress the importance of punctuality and explain why
- Recommend setting aside time after showings to consider pros and cons or write an offer

During

- Arrive on time for showings
- Wear slip-on shoes (and boots in bad weather)—sellers may request you to remove your shoes
- Don't take anything that belongs to the owner or damage the property—no loosening carpet to look at flooring
- Leave the property as you found it (lights, heating, cooling, drapes)
- Remind buyers that no house is ever perfect and to focus on the property's potential and the aspects that cannot be changed
- Buyers should not feel they will hurt anyone's feelings if they reject a home
- Be sure to look at the home's surroundings—is this a location where you want to live
- Don't smoke or eat inside the home or use the bathroom or sleeping facilities
- To help buyer-clients remember properties, use an informal name that recalls distinctive features—the picket fence house, the pink kitchen house

After

- Use the needs-and-wants checklist to evaluate properties
- Review the properties and evaluate which come closest to meeting buyer needs, wants, and priorities
- Compare cost of ownership—utilities, taxes, upkeep, insurance—to the client's budget
- Choose second-look properties as a preliminary to making an offer

Eyes and Ears Everywhere

Snapping photos can help buyers remember the details of a property, but buyers should not post those photos on social media; the photos could be used to case the home or target the family. Caution buyer-clients not to post, text, or tweet comments that can easily find their way back to the seller and harm the buyer's negotiation leverage. When buyers are viewing a property, it's not a good idea to show strong reactions or make comments—good or bad; electronic monitoring devices, like hidden web cams, can be anywhere.

NAR's Pathways to Professionalism states:

Additionally, many states do not allow the taping or picture taking of the interior of properties without permission.

Many states have regulations on whether the homeowners can video or audio record potential buyers while viewing their home. Regardless of rules and laws, caution buyers that their comments and everything they do in the property may be viewed or heard by the sellers.

REALTOR® Code of Ethics

Standard of Practice 3-9

REALTORS® shall not provide access to listed property on terms other than those established by the owner or the listing broker. (Adopted 1/10)

It may be tempting to allow experienced buyer-clients to look at properties without your supervision. It is a serious error to give buyers access codes or lock combinations to enter properties on their own. Such an action violates the REALTOR® Code of Ethics and possibly MLS rules; in some states, it violates license law.

Discussion Question

How do you prepare buyers for looking at homes? What are your best tips?

Buyer Representation

What buyers should know about compensation, loyalty and shared expectations.

Most real estate agents earn their living by representing buyers and sellers in property transactions. While commission rates and/or terms vary from one listed property to another, there's no question about which agent and brokerage firm is representing the sellers. The yard sign alone makes that clear.

However, problems can surface on the other side of the transaction if a buyer (intentionally or unwittingly) does things that lead two different agents to believe they are representing that buyer.

Examples include:

- A buyer has been searching for homes with an agent's help. On impulse, he attends an open house and starts talking to the hosting agent about what kind of home he is searching for, failing to mention that he is already working with another agent.
- A couple, early in their home search, notice two different houses for sale with two different agents. They call each agent, asking to see the homes.

In each of these cases, a buyer has demonstrated purchasing interest with more than one real estate agent. Depending on other details of the circumstances—and how your state defines the way agency relationships are formed—it is possible that a dispute could arise between agents regarding who should receive a commission if the buyer proceeds with a purchase.

This is one reason why it's in everyone's best interest, including yours, to **shop for an agent before you shop for a home**, and to formalize your relationship with a signed buyer representation agreement. Buyers have nothing to lose, because you can expect a higher level of service, typically for no additional cost.

In return for providing these services and assisting you with various transaction details, buyer's agents expect you to remain loyal to them, making it clear to any other agents that you are already being represented.

Agency relationships are based on mutual consent, so if your buyer's representative isn't living up to your expectations, you can cancel the agreement.

Most importantly, you should discuss expectations early on. Each buyer's agent has their own style and preferred way of working with clients. And each agent has their own buyer's representation agreement, outlining their obligations to you and what they expect in return.

There are also certain things buyer's reps are not allowed to do for you, such as advise you on which neighborhoods are better than others in terms of schools, crime rates or population demographics. Fair Housing Laws state they can only point you to sources of this information, helping you make your own decisions on these and other matters.

Taking time to discuss shared expectations at the beginning of your relationship is the surest way to avoid misunderstandings and form a strong partnership—one that allows your buyer's rep to serve you to their greatest ability and help you achieve the best possible result in your home purchase.

[1] Note that not every state requires a signed Buyer's Representation Agreement to create an agency relationship. In some cases, an agency relationship can be formed if both parties simply behave as if one exists.

ABR® Designation Course

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR empowered by REBAC

Procuring Cause

The principle of procuring cause is an unbroken chain of events that results in a successful transaction. When disputes arise, real estate agents tend to equate procuring cause with "all the work I did for this buyer." The pivotal question is, however, whose actions "caused" the buyer to decide to buy the property? Can you see how neither the act of showing a property nor even a signed representation agreement with the buyer is sufficient proof of procuring cause? For REALTORS®, procuring-cause commission disputes are decided by the Professional Standards arbitration panel at the local association. Seven key decision points that panels examine—and preventive steps the agent can initiate—are as follows:

1. **When and how was the original introduction of the buyer made?**
   Preventive actions: Ask prospects if they are working with or have looked at properties with other agents.

2. **Did the original introduction start an uninterrupted chain of events leading to the sale?**
   Preventive actions: Maintain careful records of property showings, communications, and interactions with buyer-prospects and clients.

3. **Did the agent who made the original introduction maintain contact with the buyer? Did the agent abandon the buyer?**
   Preventive actions: Stay in contact with buyers and keep them up-to-date on your actions between meetings and showings.

4. **Did the cooperating agent initiate a separate series of events, not dependent on the original agent's efforts, which led to a successful transaction?**
   Preventive actions: An exclusive buyer representation agreement might prevent this situation.

5. **Was the introduction of the other agent an intrusion into the transaction or cause estrangement or abandonment?**
   Preventive actions: You can't control the conduct of other agents and sadly some use unethical ploys to lure other agent's buyer clients. Prepare your buyers.

6. **Was the second agent aware of the prior introduction of the buyer to the property?**
   Preventive actions: Make sure your buyer-clients know what to say and do if approached by another agent.

7. **Did the agent do anything to cause the buyer to look elsewhere for assistance? Did the agent's actions estrange the buyer?**
   Preventive actions: Find out what is troubling a buyer and make an effort to resolve the problem.

Skill Practice – Meet Your Next Buyer

Darrell and Melissa, relocating

Darrell and Melissa are relocating, at their own expense, to your area from out of state. Darrell, a database designer, lost his job when his former employer went out of business. After several months he landed a new job with a start-up company in your area. Job prospects for Melissa are good because her skills and experience as a dental hygienist are always in demand. Their son Stewart starts second grade in the fall. Darrell and Melissa are under pressure to find a new home and move so Darrell can start his new job and Stewart can enroll in school. They also have a buyer under contract on their current home. While searching on the Internet, Darrell saw your blog about the local real estate market and was impressed by your straight talk and service approach. He sent you an e-mail regarding his job relocation and home search. The e-mail is specific about what they need and want: 3–4 bedrooms, 2 baths, yard with room for a swing set and garden, good public elementary school, family-oriented neighborhood, short commute, and public transportation options. He will discuss price range, down payment, and financing when you meet face-to-face.

Robert and Patricia, retirees

Robert and Patricia are past clients. You helped them buy their current home back when their kids were teenagers. Now, the children are through college and establishing careers and families, and Robert has retired. Robert and Patricia have decided it's time to give up the responsibilities and expense of maintaining a large home and move to a smaller house, townhome, or condo. Over lunch at a favorite café, Robert and Patricia describe their future plans and ideal new property. They are looking forward to traveling to visit children and grandchildren as well as to "seeing the world." They would prefer a 2-bedroom, 2-bath condo or town home so they don't have to worry about house maintenance and yard work. The mortgage on their current home was paid off several years ago and they want to stay debt-free in their retirement years. The cash proceeds from the sale of their current home will determine the price range for the new home. They are in no hurry to sell—they can wait for the right price. A neighborhood or development that is sensitive to the needs of older residents would be nice, but they don't want to live in a retirement community where, Patricia says, "there are too many old people around!"

Jim and Amy, referred by a past client

Jim and Amy were referred to you by Jim's cousin, a past client. Jim and Amy want to relocate in order to be within certain school districts, so they are very specific in terms of location. They are also quite specific about their needs and wants for the new home. Jim and Amy want a single family home with 4–5 bedrooms and 3 baths. Jim's father recently passed away and his mother may be moving in, so one bedroom and bath must be on the ground floor. They also want a big family room and yard. It would be nice to find a neighborhood with open space and bike trails—bike riding is a favorite family-time activity. Jim is the general manager of a home improvement store and has good contacts with contractors and builders, so a home that needs some repair or remodeling might be okay if the price is right. Amy, a paralegal at a local law firm, will transition from part-time to full-time when their son Douglas starts school. The pressure is on to find the right home and move before the next school year starts. Although they have cash to make a down payment, they can't afford to carry two mortgages. They need to sell their current home to purchase the new one.

Christina, first-time buyer

Christina called your office after visiting an open house hosted by one of your colleagues. Christina is single and well established in a successful career as a graphic designer. She currently rents an apartment—the lease expires in about four months—and she is excited about the prospects of owning her own home. Christina is interested in a townhome or single-family detached home with garden space. She would like a home that is energy-efficient. She prefers to commute by public transportation. You have a pretty good idea of her price range based on her reaction to the open-house property. Christina has a very close relationship with her parents, Ken and Grace, who plan to provide half of the down payment. Since she is a first-time buyer, Christina's parents always accompany her to showings.

Skill Practice

What issues do you foresee in the home search process?

What objections might the buyers have to signing an exclusive buyer representation agreement?

What would you say to overcome those objections?

Fair Housing *and* Your Buyer's Rep

The Federal Fair Housing Act, enacted in 1968, is designed to prohibit discriminatory practices when buying and selling homes. Administered by the U.S. Department of Housing and Urban Development (HUD), the law prohibits housing discrimination against seven protected classes—race, color, sex, religion, national origin, familial status and/or physical and mental handicaps.

Fair Housing marked a significant step forward in protecting civil rights for all people. The law covers most types of housing, and includes compliance guidelines for landlords, property managers, builders and real estate agents. The chief concern for buyer's reps is that they not engage in steering, the act of directing home buyers (or tenants) to a particular area that is chosen by the agent, not the buyer.

HOW DO FAIR HOUSING LAWS AFFECT YOUR HOME SEARCH?

Many home buyers want and expect their buyer's rep to help them make good choices in their home purchase. Consumers know that real estate agents are intimately familiar with certain neighborhoods, so it's logical that buyers would seek out their professional advice.

However, your buyer's rep may not be allowed to answer all of your questions, including questions about whether a neighborhood is safe, or the racial composition of an area, or whether the schools are good. Instead, buyer's reps are instructed to direct you to helpful sources of information so you can evaluate neighborhoods on your own.

This is because, under the Fair Housing law, it is unlawful for an agent to engage in any conduct that is discriminatory towards any of the seven protected classes. Whether a neighborhood is safe, for example, is a subjective decision. Your buyer's rep can suggest the best Web sites and other resources to gather related facts. But ultimately, buyers must form their own opinions about whether a home or a neighborhood is desirable to them.

IT'S A BUYER'S CHOICE.

A real estate professional should never steer you toward or away from a particular neighborhood if the homes there fit your needs and are within your range of affordability. However, there is no law restricting buyers from making choice-limiting decisions or ruling out certain properties or neighborhoods based on factors that are important to them. If you prefer a particular neighborhood, that is your choice, and you can share these preferences with your buyer's rep.

Ultimately, Fair Housing is designed to help all buyers achieve the dream of home ownership on their own terms. By researching neighborhoods that interest you, and giving serious consideration to your needs and preferences, you will be able to make a smart, informed home purchase—one you can enjoy for many years to come.

ABR® Designation Course

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR empowered by REBAC

Fair Housing and the Buyer's Representative

What if buyers ask questions you cannot legally answer, like the racial composition of a neighborhood? Although buyers may ask, real estate professionals should never estimate or give an opinion on the racial, religious, or ethnic composition of a neighborhood. Instead, focus on providing objective data from third-party sources. Thanks to an abundance of websites, statistical information is now available online to address a wide range of buyer-client queries. These include neighborhood income levels, education levels, school ratings, crime statistics, median incomes, age, voting patterns, air pollution, and many other aspects.

Your presentation packet could include a statement on fair housing rights as well as a list of sources for community and neighborhood information. The consumer one-sheet on the preceding page summarizes what buyers should expect.

- Federal fair housing law specifies seven protected classes: Race, color, religion, sex, handicap, familial status, and national origin.
- Some state and local governments have defined additional protected classes such as: age, sexual preference, source of income, marital status, age, military status and/or discharge, ancestry, parental status, and housing status (homeless).

  What additional protected classes does your state or local municipality have?

  _____

  _____

  _____

- The REALTORS® Code of Ethics includes sexual orientation and gender identity as protected classes.

REALTORS® Code of Ethics

Article 10

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, or sexual orientation and gender identity. (Amended 1/13)

Which Law Prevails?

What if, for example, the local law does not prohibit discrimination based on handicap, but the federal law does? The federal fair housing law always prevails. Federal statutes should be considered as the minimum laws. However, you must also comply with local and state laws at all times. As a rule of thumb, comply with the law that provides the greatest protection against discrimination.

How Will You Respond?

- **What is the racial composition of this neighborhood?**
- **I am Asian. Do you serve any areas that I would feel at home in?**
- **What kind of people live in this neighborhood?**

  Never estimate or give an opinion on the racial, religious, or ethnic composition of the neighborhood. Focus on providing objective data from third-party sources and make sure you provide this information to all clients. Refer home buyers to sources of information such as the websites, or the local municipal offices so they can research the questions themselves. Focus on economic status and occupation, which are not protected by Fair Housing law. If you mention people you know or have worked with in the area, do not describe them in a way that includes a protected class. For example, you could say, "this is a middle-income neighborhood. Many of the folks who live here work at the businesses downtown because it is an easy commute."

- **How are the schools in this area? Are they good? Are the schools integrated?**

  Provide the buyer only with reliable and authoritative information, such as student-teacher ratios, expenditures per pupil, percentage of students who go on to college, the number of National Merit scholars, and the like. Refer the buyer to sources of information, such as the school or the school district's main office. Maintain the same type of information for each school and never favor one school over another. Never attempt to influence a housing choice with either complimentary or negative general comments about the school or give an estimate or opinion of the racial, religious or ethnic composition of the student body. You could say, "Our office does not maintain statistics regarding the racial makeup of the

student body of schools in our market area. To get the best answers to your questions, you should contact either the school or the school district's main office. Also, you might want to check with some of your potential new neighbors about how they feel about the schools their children attend."

- **Why don't you just pick out some properties in safe areas?**

  Give your honest opinion, whether it's positive or negative, to this question and give a non-discriminatory reason that focuses on the attributes of the property. Never mention or volunteer information related to the racial, religious or ethnic makeup of the area. You could say, "Yes, I would. The area is well-maintained and that particular house is very nicely located." Or, "No, I wouldn't because the house is too small for our family." Or, "No, I wouldn't because it's too far from my spouse's office."

Statement of Fair Housing Policy

As noted earlier, the buyer representation agreement should include language indicating the company's commitment to equal housing opportunity and a statement that the agent may not lawfully disclose information regarding race or other protected classes. For example:

It is the policy of (firm name) to abide by all local, state, and federal fair housing laws and not discriminate against any individual or group of individuals. The agent may not lawfully disclose the racial, ethnic or religious composition of any neighborhood, community, or building, nor whether persons with disabilities are housed in any home or facility, except that the agent may identify housing facilities meeting needs of a disabled buyer.

Skill Practice Scenarios

Darrell and Melissa

Darrell and Melissa want to make an offer one of your colleague's listings. The property is listed at $259,000. A few weeks before you met Darrell and Melissa, your colleague told you that there was an accepted offer for $235,000 that did not close due to buyer financing problems. She also confided that the sellers are very motivated and growing increasingly anxious about selling their home. In addition to being very motivated, the sellers were now willing to accept a reduced price, because a property inspection turned up problems with the roof, which will probably need to be replaced within a year; plus, the kitchen appliances are old, yet still functional. Based on their Internet research on Trulia and Zillow®, Darrell and Melissa want to make a $245,000 offer on the property.

- **What are the issues involved in this scenario?**
- **Should you tell Darrell and Melissa that there was an earlier offer of $235,000?**
- **What would you do next?**

Robert and Patricia

You lined up six properties for Robert and Patricia to view, one of which is a condo on which you made a listing presentation. Although you didn't get the listing, during the course of the conversation you learned the seller's motivation, bottom line price, and other information pertinent to the sale of their property. When Robert looks at the listing he says, "We've already seen one of these condos at an open house and really liked it. We knew better than to say anything that would harm our negotiating position if we decide to make an offer. That's okay, right?" You asked if Robert and Patricia told the open house agent that they were working with you or if they signed anything. Patricia says she doesn't think so, but really can't remember. They have looked at so many open houses it's kind of a blur.

- **What are the issues involved in this scenario?**
- **Is it a problem that Robert and Patricia have already seen the condo?**
- **How could you prepare them for open houses?**
- **What would you do next?**

Jim and Amy

Jim and Amy are scouring the neighborhoods in their first-choice school district. One Sunday afternoon, they drive by a FSBO property that looks very attractive. The owner is outside mowing the lawn and invites Jim and Amy in to see the house. It's love at first sight for Amy and she is already picturing how she will decorate the house for the holidays. Jim suspects the house has some delayed maintenance issues. Also, all of the bedrooms and bathrooms are on the second floor. Will it be possible to add on a ground floor addition? When Jim asks why the house is for sale, the seller says that the home was listed with an agent but it didn't sell before the listing expired. Jim asks the seller if you can contact them tomorrow and the seller says that would be okay.

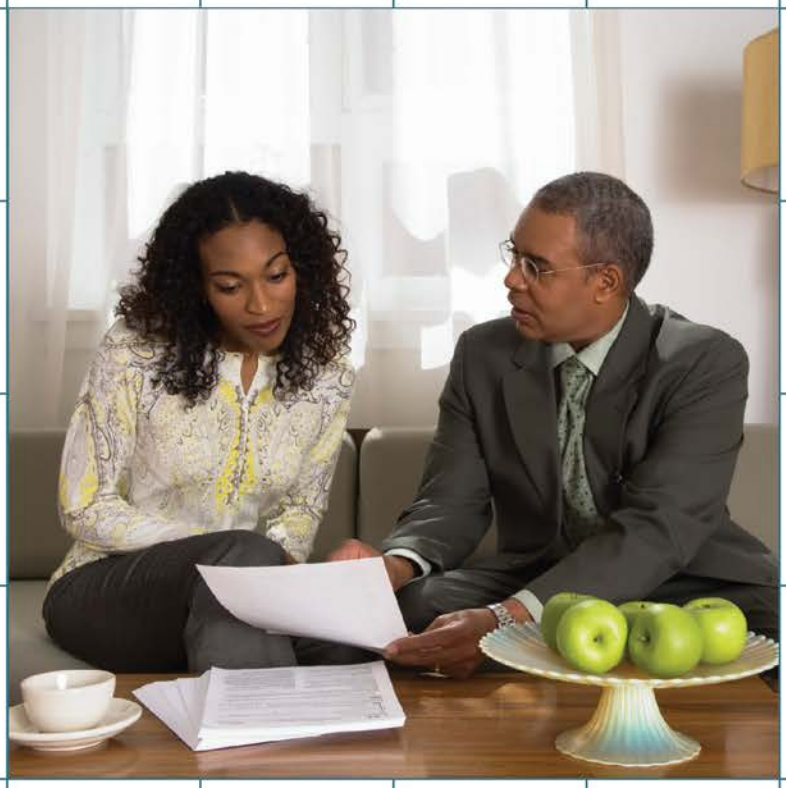
- **What are the issues involved in this scenario?**
- **What would you say to the FSBO seller?**
- **Is it a problem that Jim and Amy have already seen the home?**
- **What would you do next?**

Christina

Christina and her parents are touring loft apartments. Her face lights up when she walks into a newly renovated loft apartment and she wants to share her excitement with friends. She starts snapping photos with her phone and tweeting about the loft. The builder's sales agent, picking up on Christina's excitement, enthuses about how quickly the neighborhood is gentrifying. The sales agent says this is a chance to buy into tomorrow's trendy neighborhood before prices really go up. Christina's father, checking out the HVAC, asks how much it will cost to heat and cool the loft. He also asks about the property taxes. Christina's mother asks, "Do you think this is a safe neighborhood for a single woman? Would you live here?"

- **What are the issues involved in this scenario?**
- **How would you respond to questions from Christina's mom about the neighborhood?**
- **What would you say to Christina about taking photos and texting?**
- **What would you do next?**

5. Offers, Counter Offers, and Negotiations

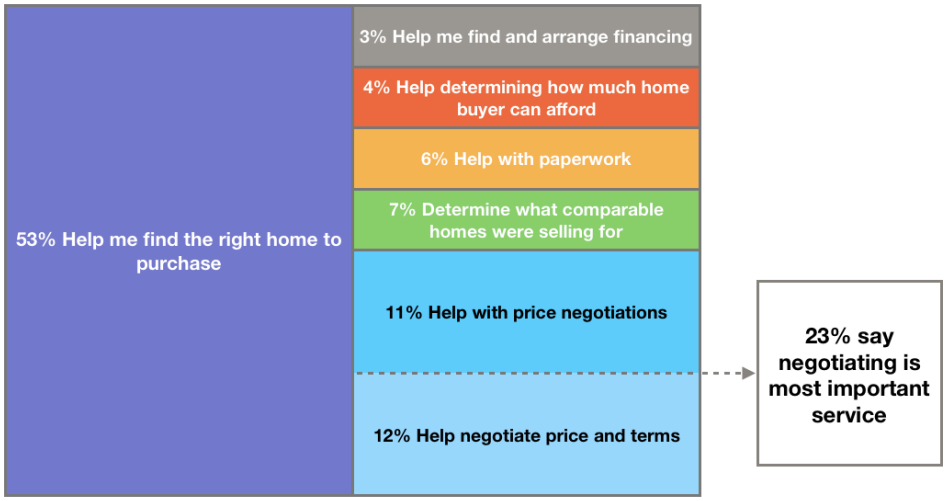


NATIONAL ASSOCIATION of REALTORS®
Official Designation

ABR®

Preparing the Buyer

After finding the right property, the next most important services that buyers say they want you to assist with are negotiating price and terms.



As you help buyers formulate an offer, think of the process as a "training the buyer-clients" seminar to help them understand the give-and-take of the offer and negotiating process. Educating first-time buyers is particularly important because they may be intimidated by the paperwork, as well as the unknown venture they are undertaking. You may need to educate your buyer-clients on important facts about making an offer.

- An offer is a contractual commitment between the buyer and seller. Once signed, both parties are legally obligated to contract terms.
- Making offers on several properties at the same time, just to see which one will elicit the first and best response, is very risky because the buyer can be on the hook for every accepted offer.
- Providing sample forms (with the blanks filled in with examples of information) familiarizes buyer-clients with this step in the transaction process.
- Verbal promises are not enforceable. Everything regarding the transaction must be in writing.
- Planning and following through with a strategy avoids "negotiations fever." Negotiating the price and terms is not a game. Prolonged back-and-forth negotiations risk annoying the seller or losing out to another offer.

- In a hot sellers' market with multiple offers likely, buyers should try to present their best offer first because there may not be another opportunity.
- If the seller makes a counter offer, which should be in writing, the buyer may accept or reject it, or make a counter offer. If sellers reject an offer, they cannot change their minds later and hold the buyer to the terms of the offer; the same is true if a buyer rejects a seller's counter offer.
- An offer may be revoked up to the time it is accepted or the buyer is notified of acceptance. Revoking an accepted offer, however, is a serious step that can result in loss of earnest money or a lawsuit brought by the seller for recovery of damages.

Confidentiality of Offers

Sellers and their agents are not obligated to keep buyers' offers confidential. If your buyer-clients don't want the offer details or their identity disclosed to others, consider asking the sellers to sign a confidentiality agreement before presenting the offer. In some states, license laws prohibit disclosure of the terms of competing offers unless the parties specify what their agents may disclose. Confidentiality agreements are more common in commercial transactions than residential.

Educated Buyers Make Sound Decisions

In “Getting to Yes: Negotiating Agreement Without Giving In”, authors Ury and Fisher outline a “straightforward method of negotiation that can be used under almost any circumstance.” One of the four principles of this method is: Insist on using objective criteria.

Market data is the “objective criteria” of the real estate negotiation. However, such data alone does not paint the whole picture of the market and is subject to interpretation. Consider the following distinctions between data, information, knowledge, and insights:

- **Data**
  - A collection of facts from which conclusions can be drawn
  - Collection or representation of facts in raw or unorganized form (such as alphabets, numbers, or symbols) that refer to, or represent, conditions, ideas, or objects.
  - Data is limitless and present everywhere in the universe. In fact, as Dr. Norbert Wiener (co-founder of the science of cybernetics) once suggested, this world "... may be viewed as a myriad of 'To Whom It May Concern' messages."
- **Information**
  - Data that has
    1. has been verified to be accurate and timely
    2. is specific and organized for a purpose
    3. is presented within a context that gives it meaning and relevance
    4. can lead to an increase in understanding and decrease in uncertainty
  - The value of information lies solely in its ability to affect a behavior, decision, or outcome. A piece of information is considered valueless if, after receiving it, things remain unchanged
- **Knowledge**
  - Human faculty resulting from interpreted information
  - Understanding that comes from combination of data, information, experience, and individual interpretation
  - Knowledge is the sum of what is known and resides in the intelligence and the competence of people

- **Insights**
  - The application of knowledge that looks toward the future
  - Intelligent forecasting based on experience

It is recommended that you utilize the analytics in your MLS and RPR to communicate the actual market conditions in your area for the type of home the buyer is currently looking for.

How do we impart our knowledge and insights to help buyers make sound, informed decisions?

- We must process large amounts of market data and collate it into meaningful information that is readily comprehensible.
- Then present it in a visually compelling manner so it is hard to refute from any logical or factual basis.
- We need to show them the realities of the local market not what the media has said or what information aggregators show.
- What is on-line is data and information only.
- Clients are looking for:
  - Relevant information, supplied by a trusted source with appropriate and accurate analysis.
  - Perception of us will change to professional consultants rather than just 'sales people'.

Exercise: What Buyers Need to Know

What do buyers need to know to shape their expectations about the market and be prepared to make sound negotiating decisions?

Evaluate the Buyer-Client's Negotiating Position

Assessing your buyer's negotiating position involves collecting and evaluating information about market conditions, the property, the buyer's financial strength, and the seller's situation. Discussing pros and cons helps you and your client articulate a negotiating position and rationale. Use the checklists on the preceding pages to help assess negotiation position factors.

Evaluate the Buyer-Client's Negotiating Position

Market	Property
Buyer Advantages: ▪ Buyers' market with many affordable properties available ▪ Low point of seasonal cycle ▪ Weakening economy/high unemployment ▪ High interest rates generally mean fewer sales and a better negotiating position for buyers	**Buyer Advantages:** ▪ Many similar properties in the area and on the market ▪ New home construction weakens seller's position on existing homes ▪ On market for a long time ▪ Property needs repairs or remodeling ▪ Distressed sale—REO, foreclosure, short sale
Buyer Disadvantages: ▪ Sellers' market with few affordable properties available ▪ High point of seasonal cycle ▪ Strengthening economy ▪ Low interest rates attract more buyers and strengthen the seller's position	**Buyer Disadvantages:** ▪ Few similar properties in the area and on the market ▪ Unique property ▪ Lack of new construction increases competition for existing homes ▪ Pending offers ▪ Rapid property value appreciation
Questions: ▪ Is it a buyers' or sellers' market? ▪ Is it the high or low point of a seasonal cycle? ▪ How high are interest rates? ▪ What are general economic conditions nationally, locally (employment, inflation, interest rates)? ▪ What is an acceptable tradeoff between high or low interest rates and strength of negotiation position?	**Questions:** ▪ How does the property compare to similar ones in the area? ▪ How long has it been on the market? ▪ Have there been other offers that fell through? ▪ Are there offers pending? ▪ Does the property need repair or remodeling?
Increase Buyer Advantage By: ▪ Taking advantage of favorable interest rates and mortgage terms ▪ Timing the purchase with the seasonal cycle and/or favorable market conditions	**Increase Buyer Advantage By:** ▪ Recommend that buyers widen the search area or re-evaluate their needs and wants ▪ Ask for a warranty ▪ Include protective contingencies

Evaluate the Buyer-Client's Negotiating Position

Buyer Finances	Seller
Buyer Advantages: ▪ Large down payment ▪ High income in relation to mortgage payment ▪ Favorable credit history ▪ No current home to sell ▪ Pre-approved for financing ▪ Low debt load	**Buyer Advantages:** ▪ Personal rapport with seller ▪ Agreement on terms and occupancy dates ▪ Highly motivated seller ▪ Few contingencies
Buyer Disadvantages: ▪ Low cash reserves ▪ Low income ▪ History of credit problems ▪ Borderline position for financing ▪ Will need seller financing or cost-sharing ▪ High debt load	**Buyer Disadvantages:** ▪ Personality clash with seller or seller's representative ▪ Many contingencies ▪ Seller in no hurry to sell, can wait for right offer ▪ Low equity in property
Questions: ▪ Is the buyer eligible for FHA, VA, or financing assistance? ▪ Must the seller provide financing or share closing costs? ▪ Can the buyer's credit history be improved? ▪ Must the buyers sell their current home before closing on the new one?	**Questions:** ▪ What are the seller's motivations and objectives? ▪ Why is the property being sold? ▪ What is the seller's experience with real estate transactions? ▪ How important are the contingencies?
Increase Buyer Advantage by: ▪ Recommend mortgage pre-approval ▪ Limit contract contingencies ▪ Recommend the buyer-client try to pay down credit card balances and other loan commitments	**Increase Buyer Advantage by:** ▪ Building personal rapport with the seller ▪ Setting aside personal issues with the seller or seller's agent that impact negotiations

Formulating an Offer

Market and property facts from the Market Analysis provide the basis for making an offer.

- **Market facts**
  - Price of similar properties—look at list and sales prices on similar properties in the same area
  - Price trends—current percentages of list compared to sales price
  - Supply and demand—in a high-demand, low-supply market, your buyer's offer may be competing with others
  - Absorption rate—number of month's supply of inventory
  - Average time on market—cumulative market time is critical
- **Property facts**
  - Property condition—is it in good condition or must the buyer make substantial investments in repairs?
  - Length of time on the market—a long time on the market may indicate a slow market or some problem with the property.
  - Seller's motivation— a seller under pressure to close a deal may be more receptive than one who can wait until the "right offer comes along."
  - Terms—what terms and contingencies must be written into the offer? Terms that make an offer attractive include an all-cash transaction, pre-approval for financing, quick closing, and few contingencies or seller concessions.
  - Return on investment—for commercial and investment buyers, the future income stream and return on investment is an important consideration in developing an offer.
  - History of property—previous sales and financing history
  - Review disclosures buyer is entitled to receive

Inclusion of all personal property (and possibly fixtures to avoid confusion) that the buyer wants to have remain with the property. The sales contract supersedes whatever is being offered in the MLS, and the seller has the right to take his personal property with him if it is not included in the contract. Often the loan officers ask to have the personal property removed from the contract and put on a separate addendum. Legal counsel should be consulted prior to creating an additional document that is not disclosed to the lender.

Is It a Buyers' or Sellers' Market?	
Strategies for a Buyers' Market	**Strategies for a Sellers' Market**
▪ Keep up-to-date on price adjustments ▪ Shop around for good mortgage terms ▪ Request contingencies or extras like a home warranty ▪ Ask the seller to help with closing costs ▪ Shorten the time for the seller's acceptance ▪ All cash or a mortgage pre-approval provides even more leverage than in a seller's market	▪ Obtain a mortgage pre-approval before making an offer ▪ Offer the list price or more ▪ Make the first offer the best offer as there may not be a counter offer or another opportunity ▪ Minimize contingencies and don't ask for seller help with closing costs or financing ▪ Pay cash for all or most of the purchase

Contingencies

Common contingencies that are often written into standard contracts include a satisfactory home inspection report, approval of financing, and sale of a current home. Contingencies may be added based on the property or circumstances of the seller or buyer.

Commonplace buyer contingencies include:

- Attorney review
- Inspections; full house, mold, radon, pest infestation, etc.
- Mortgage financing approval within a specified interest rate range
- Sale of a current home
- Receipt and approval of homeowner association documents
- Early occupancy (with payment of rent) or furniture move in
- Appraised value not lower than offered amount
- Home warranty

- Personal property included in the sale (e.g. appliances, draperies)
- Subject to determination of affordable home owners insurance
- Subject to determination of flood plain issues
- Verification that all improvements were made with proper permits issues and all certificates of occupancy were issued

Seller concessions could include:

- Permitting the buyer to move in quickly
- Help with financing
- Renting to the buyers with an option to buy
- Paying some of the buyer's closing costs
- Paying for improvements such as exterior painting or repairing defects discovered during inspections

Prepare a Market Analysis

Preparing a winning offer starts with a detailed Market Analysis, similar to the one prepared for sellers. Be sure to check your Market Analysis results against online value estimators like Zillow®. Your buyer-clients probably check values on these websites and you need to be prepared to respond to concerns about differences in estimated values.

If you have access to the Realtors Property Resource® and the Realtors Valuation Model® (RVM®), the Property Report provides an estimated value based on real-time MLS data and assembles a comprehensive profile of the neighborhood and property. The Property Analysis for Investors tools on the Details tab lets you choose a strategy—buy and hold, resell, or rent—and adjust the variables for investment goals, financing, and property conditions. Export the results to an Excel® worksheet.

Are you acting as a disclosed dual agent in a transaction? Although state-specific, if while acting as a dual agent you prepared a CMA for the seller, you should also do so for the buyer. Not doing a CMA for the buyer puts him or her at a disadvantage.

Property Disclosures

Buying a home can present hidden risks. While sellers must provide prospective buyers with complete and accurate descriptions of properties for sale, each state varies regarding the details sellers must legally disclose to buyers. No matter where you live, smart buyers also exercise personal responsibility, to whatever extent possible and reasonable, to help avoid unpleasant surprises.

The following list outlines numerous issues buyers should consider when purchasing property. Some are addressed by sellers' disclosure documents, others are not. Your buyer's rep can counsel you on the specifics in your state and discuss appropriate steps to discover and remedy potential property concerns.

HOME CONDITION—STRUCTURAL

- Roof
- Foundation
- Interior/exterior walls
- Fireplace/chimney
- Floors
- Windows/doors
- Ceilings
- Garage
- Patio/deck

HOME CONDITION—MECHANICAL

- Plumbing system
- Electrical system
- Heating and/or air conditioning
- Sewer and/or septic system
- Built-in appliances
- Other systems and fixtures

ENVIRONMENTAL HAZARDS

- Asbestos
- Lead-based paint*
- Meth lab
- Mold
- Radon

OTHER CONDITIONS

- Termite or other pest infestation
- Flooding (including federally-designated flood plain*)
- Utility or other easements
- Adjoining private roads (and obligation to maintain)
- Shared driveways, walls, or encroachments from or on adjacent property
- Stigmas (including registered sex offenders)

OFF-SITE CONDITIONS

Odor, smoke, noise, and hazards affecting property due to proximity to:

- Highways
- Railroads
- Commercial/industrial facilities
- Military installations
- Superfund sites
- Toxic waste dumps

LEGAL /FINANCIAL CONSIDERATIONS

- Possible or probable short sale or foreclosure
- Violation of building codes, zoning ordinances or other restrictive covenants
- Zoning (restricting buyer's intended use for the property)
- Homeowners association obligations
- Tenancies, judgments or tax liens
- Proposed assessments or zoning changes
- Mechanics' or materialmens' liens

OTHER OFF-SITE CONSIDERATIONS

- Neighborhood noise (e.g., barking dogs)
- Traffic
- Safety
- Availability of, or consequences from, public parking
- Zoning (impacting how nearby property will be used in the future)

ABR® Designation Course

PREVENTIVE MEASURES

Buyers can take steps to reveal problems and reduce risk. Ask your buyer's rep about the following options and other appropriate measures. Inspections and other preventive steps are especially important for distressed properties.

Home Inspections: A thorough home inspection should reveal structural or mechanical issues. Certain problems may require a separate evaluation by a trained specialist.

Home Warranties: Home protection plans can cover the cost of future repairs to malfunctioning home appliances or systems. Policy coverage and costs vary.

C.L.U.E. Reports: Comprehensive Loss Underwriting Exchange Reports provide details on insurance claims filed in the past five years, such as wind, water or mold damage—considerations that could impact the cost of insuring the home.

*These items are subject to federal laws and must be disclosed in all states.

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

Negotiation *Planning Guide*

Successful negotiators rely on:
1) research - gathering all the relevant facts you can about the market, the buyer and the seller; and
2) planning - using these facts, coupled with an understanding of different negotiating techniques, to craft an optimal strategy.

When developing your negotiation plan, take time to first assess each of these factors:

MARKET CONDITIONS

- Conduct a thorough market analysis specific to the property in question, evaluating:
  - Inventory/absorption rate
  - Average list price trends
  - Trends in number of homes sold
  - Average selling price to listing price ratio
  - Price per square foot
  - Relative property condition
  - Any other relevant data
- What does the data say about the seller's asking price? Opportunities for buyers?
- What distortions, if any, are caused by distressed properties?

BUYER'S PERSPECTIVE

- What are your buyer's alternatives?
- What is the maximum price they are willing to pay?
- What other elements can your buyer include in their offer (or a response to a counteroffer) to make it more appealing?

SELLER'S PERSPECTIVE

- What are the seller's alternatives?
- What is the possible minimum the seller would accept?
- What do you know about the seller's situation that reveals motivations, priorities, etc.?

ZONE OF POSSIBLE AGREEMENT

- What is the range (if any) between the buyer's maximum price and the seller's expected minimum price?
- How do these numbers compare to your analysis of market conditions specific to this property?

PERSUASION APPROACHES

Which will be most effective? (Think SUCCESS to remember all options.)

Self-interest – Can you show the seller why it's in their best interest to accept your buyer's offer?

Uniqueness – Is there a way you can make your buyer's offer unique and/or special relative to other buyers' offers?

Contrast – Can you present comparisons that will improve the appearance of your buyer's offer?

Communication – What method of presentation will you utilize? Words? Verbal? Body language?

Exchange (or reciprocity) – Can your buyer help the seller get what they want in exchange for giving your buyer what they want?

Sameness – Is there a "connecting point" with the seller and/or the listing agent that you can use to your advantage?

Sound logic – Can you use logic and rationale to justify your buyer's offer to the seller?

PLAN!

Working with your buyer, take all these and other relevant factors into consideration and agree on a negotiating plan. Will you be leaning heavily upon logic and data, using your market analysis to support your offer? Are there other aspects of your buyer's offer that can be emphasized to sweeten the deal? How will you structure your initial offer, relative to potential responses to counter-offers?

These questions, and others, are central to negotiating success. You can demonstrate your knowledge and experience to buyer-clients—and improve their ability to get what they most want from you—by taking a professional, step-by-step approach to negotiating on their behalf.

ABR® Designation Course

The Negotiating Process

You've found a home that's right for you and it's time to make an offer. What steps are involved in negotiating a real estate purchase?

STEP 1. RESEARCH AND PLANNING

Depending on market conditions, you may have to act quickly, before another buyer steps ahead of you. That said, the best way to approach a home purchase is to arm yourself with facts and to plan a negotiating strategy. Your ABR® can assist you on both these points.

When deciding what to offer for a property, current market prices are the most important factor. Your ABR® can provide valuable assistance in this regard—counseling you on market conditions, price ranges, comparable properties, and appropriate negotiating strategies.

STEP 2. SUBMIT AN OFFER

Real estate transactions require a written contract, which conveys an initial written offer. A check for earnest money usually accompanies an offer.

Your offer will specify price, plus all the terms and conditions of the purchase you want to negotiate. Your ABR® provides a valuable service by helping you use standard forms that are kept up-to-date with changing real estate laws, which vary from one state to another, and by explaining the negotiating impact of including various terms and conditions.

STEP 3. THE SELLER'S RESPONSE

When your offer is presented, the seller's options are to:

Accept. If, after reviewing your written offer, the sellers sign their unconditional acceptance, then you will have a binding contract as soon as you are notified of the offer's acceptance.

Reject. If the sellers reject your offer, you are released of any obligation. The sellers cannot later change their minds and expect to bind you to a contract based on that offer.

Counteroffer. If the sellers like most aspects of your offer, they may present a written counteroffer that includes the changes the sellers want to make. You are then free to accept their counteroffer, reject it, or make your own counteroffer to their counteroffer. This process can repeat itself as many times as it takes for you and the sellers to agree on the sales contract. At this point, negotiations are over and the terms of the sale are final.

It is important to note that the negotiating process always moves forward; buyers cannot decide at a later time to accept a counteroffer that they previously rejected. If the property is still available, buyers must reinitiate negotiations by submitting a new offer.

WITHDRAWING AN OFFER

Can you take back an offer? In most cases the answer is yes, right up until the moment your offer is accepted. In some cases, you can withdraw an offer before you've been notified of its acceptance.

If you want to withdraw your offer after acceptance, be sure to do so only after consulting a lawyer who is experienced in real estate matters. You want to avoid losing your earnest money deposit or a lawsuit for damages the sellers incurred because of your actions.

ABR® Designation Course

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

Skill Practice Scenarios

Darrell and Melissa

Darrell and Melissa are feeling time pressure to find the right house and move. There are two homes that look good to them and either one would be acceptable if the price and terms are right. One home is listed at $245,000 and the other at $239,000. Darrell and Melissa's target price is no more than $235,000. Darrell asks you if it's okay to make offers on both properties at the same time.

- **What are the strengths and weaknesses of Darrell and Melissa's negotiation position?**
- **How would you advise Darrell and Melissa to proceed?**

Jim and Amy

Two days ago, you contacted the FSBO sellers of the property that Jim and Amy really want. So far no one has returned your phone calls. Jim and Amy are ready to make a full-price offer. This morning the property popped up on the MLS as a "new listing." The original listing agent contacted them, relisted the property, and now has a buyer who is interested in the home. The list price, however, is now $10,000 higher than the sale price the FSBO sellers quoted when Jim and Amy looked at the house.

- **What are the strengths and weaknesses of Jim and Amy's negotiation position?**
- **How would you advise Jim and Amy to proceed?**

Robert and Patricia

Robert and Patricia really liked one of the condos you showed them, and the elderly sellers were present when Robert and Patricia viewed the condo and they all really hit it off. Now Robert and Patricia want to make an offer. The sellers have already received one offer, to which they haven't responded because they just really like Robert and Patricia and would like them to have their condo. The sellers instruct their listing agent to tell you the amount of the other offer so that Robert and Patricia can match it and get the condo.

- **What are the strengths and weaknesses of Robert and Patricia's negotiation position?**
- **Does the listing agent have to tell the buyer with the other offer what's going on?**
- **Is there anything left to negotiate?**
- **How would you advise Robert and Patricia to proceed?**

Christina

Before calling you to start the offer process, Christina pulled up a Zillow® report and found a value estimate that is lower than what the sellers are asking or what you said comparable properties are going for. Christina posts to all her Facebook friends how excited she is about negotiating for the loft. She asks for suggestions on negotiating and her friends respond with lots of ideas on strategy.

- **What are the strengths and weaknesses of Christina's negotiation position?**
- **How would you respond to the Zillow® estimate?**
- **Do you see any problems or concerns with this online chatting?**
- **What if the buyer's representative was posting this to Facebook?**
- **How would you advise Christina to proceed?**

Presenting an Offer – Know the Rules

The REALTOR® Code of Ethics states that all offers and counter offers must be presented to the clients up to closing or until the sellers states, in writing, that they no longer want to entertain offers.

Personally Presenting Your Buyer's Offer

In some marketplaces, it may be the custom for the buyer agent to accompany the listing agent when the offer is presented to the seller.

If you will be present when the offer is presented you will want to

- Create a friendly atmosphere
- Avoid negative comments about the seller's property
- Explain the offer to the seller
- Ask if they have any questions
- Leave the seller to discuss the offer with their agent

REALTORS® MLS Policy Statement 7.73

Cooperating participants or their representatives have the right to participate in the presentation of any offer.

REALTORS® Code of Ethics
Standard of Practice 1-6

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. (Adopted 1/93, Amended 1/95)

REALTORS® Code of Ethics
Standard of Practice 1-7

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. (Amended 1/93)

Your duties to a buyer-client require a timely submission of the buyer's offers and responses to counter offers.

REALTORS® Code of Ethics
Standard of Practice 1-8

REALTORS®, acting as agents or brokers of buyers/tenants, shall submit to buyers/tenants all offers and counter offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS®, acting as agents or brokers of buyers/tenants, shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. (Adopted 1/93, Amended 1/99)

Confidentiality and Disclosure

As stated previously, sellers are not legally obligated to keep offer details or the buyer's identity confidential. Per Standard of Practice 1-13, REALTORS® must advise potential clients of "the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties."

If your buyer-client requires confidentiality, the buyer should ask the seller to sign a confidentiality agreement before you present the offer. If the seller refuses to sign, your buyer-client must consider whether or not to go ahead with presentation of the offer.

On the other hand, listing agents are required to disclose if a property is under contract, even if that contract is subject to a contingency. They are also required to report the acceptance to MLS according to MLS rules.

REALTORS® Code of Ethics
Standard of Practice 3-6

REALTORS® shall disclose the existence of accepted offers, including offers with unresolved contingencies, to any broker seeking cooperation.

Listing brokers are not required to *automatically* disclose the existence of offers on a property. The buyer or buyer's representative must ask for this information and the seller must consent to divulging it.

REALTOR® Code of Ethics
Standard of Practice 1-15

REALTORS, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS shall also disclose, if asked whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker.

Variable Rate

Variable rate commissions are often misunderstood, but it's important to understand what they are and why listing brokers are required to disclose them. "Variable rate" simply means the seller pays one amount if the listing broker's firm procures the buyer and a different amount if a cooperating broker procures the buyer.

A variable rate commission can impact the seller's bottom line, since the net proceeds on identical offers will vary depending on who procures the buyer. Therefore, variable rate commissions must be disclosed to cooperating brokers. Buyer's representatives must disclose such information to their buyer-client before making an offer. When a variable rate commission has been appropriately disclosed in the MLS, it is the buyer's representative's responsibility to inquire further as to the variance or differential.

REALTOR® Code of Ethics
Standard of Practice 3-4

REALTORS®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/ landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. (Amended 1/02)

Back-Up Offers

A back-up offer is a written offer containing a contingency making it subject to the release of a prior contract. Upon acceptance, the offer becomes a contract in "back-up position." An accepted back-up contract does not give the seller the right to cancel the first contract, but it makes it critical for the first buyer to meet all obligations and contingencies as a seller with a buyer in back-up position may be quick to cancel.

Multiple Offer Situations

Multiple offers weaken a buyer's leverage. Sellers are neither obligated to consider offers in the order that they were received, nor accept the highest bid if a lower bid presents more attractive terms. And it doesn't have to be a seller's market for a seller to receive multiple offers on a property.

Multiple offers complicate the situation, because buyers must consider not only their own interests and capabilities along with the property's condition, but also the unknown factor of other buyers' interests and capabilities. When a multiple-offer situation arises, consider the following factors as you help your buyer client formulate an attractive offer:

- What is your responsibility, as the buyer's representative, to your buyer-client and how do you best meet it?
- Who made the other offers? A customer from the listing office or another cooperating brokerage? A buyer-client or customer of another salesperson from the listing office?
    - Who should present the buyer-client's offer? Should the buyer's representative request to be present when other offers are presented? Or, is it in your buyer-client's best interest for the listing agent to present that offer to the seller along with other offers? Or, would it be better to ask the broker of the listing office to present your buyer-client's offer, instead of the listing agent?

Remember: The listing broker is not required to tell you if there are other offers on the table. It's the seller's decision.

If a multiple offer situation arises, counsel buyers not to panic or withdraw from negotiations; they may be the highest bidders and will never know it if they pull out. Although the situation may be nerve wracking and the final outcome disappointing, it is worth the time and effort to go through at least one round of negotiations before withdrawing. Counsel buyers to have a price in mind, remain objective, and stay in the negotiations until that price is reached.

Discussion Question

What can the buyer do to get an edge on the competition in a multiple offer situation? What can you do as their buyer's representative?

Using an Escalation Clause

1. Contract reads: "$400,000 or $5,000 higher than the highest ascertainable, bona fide offer".

2. Contract could read "5,000 higher than the highest ascertainable, bona fide offer" without a price

3. There does not need to be a 'not to exceed' price in the offer

4. When the seller comes back with a price – let's say $425,000 – the buyer has the ability to say "no" and he is not bound.

5. Putting a "not to exceed" gives the seller the buyer's maximum price. There would be no reason why the seller could not counter at that price – even if the other offer was not even close!

6. Listing agents should not eliminate the other offer before they go back to the buyer with the escalation clause to verify he will go to the price the seller is asking.

7. There may be NO way that the buyer will ever get something that totally satisfies him relative to what the other offer was. Buyers should only use an escalation clause if he can live with this.

Tips on Using an Escalation Clause in Your Offer

An escalation clause can be a useful strategy to raise your offer price, while not overpaying compared to the next closest bidder. Here are some tips for effectively adding an escalation to your offer.

1. **Determine your highest acceptable price** – Whenever you are competing with another bid, you have to decide what the maximum price you are willing to pay. Don't get caught up in the competition and stick to your price so that you don't end up overpaying.
2. **Accept that you may not get the evidence you desire – you have to look at using an escalation clause as a way to get the property and be able to accept the fact that you may not get the kind of hard evidence you need regarding the other offer. Remember Tip #1 – do not go higher than you feel the property is worth.**
3. **Price escalation cannot make up for weaker terms** – if the other terms of your offer are weak (low down payment, multiple contingencies, long closing time), the small premium in price that your escalation gives isn't the most compelling offer. Money usually is the deciding factor on house offers, but when bids are close to one another, sellers often opt for the offer that looks like a sure thing.
4. **Ask to see the competing offer** – In a normal real estate bidding process, competing offers are not shared with you. However, when you use an escalation clause, there is an obvious opportunity for sellers to game the system and claim that there is a competing offer that doesn't actually exist. The escalation contract could require the seller to show a copy of the competing offer before they can invoke the escalation clause. *"If seller receives an offer which is higher than the offer contained in this contract, seller will provide purchaser with a copy of that higher third party offer. Seller reserves the right to delete the name of that third party offeror to protect privacy. Seller represents and warrants that the third party offer is bona fide."*

Why Shouldn't I Use an Escalation in My Offer

On the surface, it would seem that an escalator is a great way to compete on price without paying too much more than your competitors. However, it is not a guarantee to winning a bidding process.

Banks don't accept escalators – If you are bidding on a bank-owned house, you can forget escalation in your offers. Banks won't review offers that contain an escalation clause, so don't bother with it. You will be asked for your "highest and best offer," which means you need to pick a competitive price that you are comfortable with and stick to it. If you get the property, great. If you lose to the competition, remember that there will always be another house coming on the market.

Sellers don't always like escalations – Some sellers believe that if buyers were to submit their highest and best they may get more money for their property. They don't like to "play games" and some have been known to take a lower offer rather than run the risk of losing that offer in an attempt to get something higher from you.

It still must appraise – Overpaying for a property and having it not appraise – thereby not being able to close – is not in the best interest of either the buyer or the seller. A good listing agent will have advised their client if they feel that they are reaching the appraisal limit and this is another reason the sellers may not want to entertain your escalation clause.

Adding an escalation clause to your offer can be an effective strategy to compete on price, but think carefully about the situation before doing so. Putting your "highest and best" offer forward may be the better approach.

Offers on REO Properties

- **Making the offer**
  - The offer is made to the bank or lender, usually through a representative of an asset management company.
  - The buyer must present a signed contract with earnest money.
  - The buyer must provide a proof of funds or pre-approval for financing.
- **What to expect**
  - Pressure for a quick closing date.
  - Property sold in as-is, where-is condition.
  - Asset managers are usually not licensed real estate agents.
  - No seller disclosures or concessions like price reductions for repairs.
  - No contingency for sale or close of a current home.
  - In the time it takes for the bank to respond with a signed contract, there may be other offers which must be presented to the seller, unless the bank has stated that they will not entertain any more offers.
  - Acceptance is handled through a counter addendum which is sent by the bank
  - Counter addendum issues include: altering inspection periods, modifying seller warranties, changing financing provisions, imposing penalties for failure to close, and environmental disclaimers, among many others.
  - All deals are subject to review by senior management. The property is not under contract until the lender signs the counter addendum. No notice to the MLS is required until the property is under contract.
- **Protect your buyer-client**
  - Don’t write on the counter addendum documents—markups will invalidate it.
  - Check the counter addendum for alterations from the agreed terms.
  - Encourage your buyer to schedule a thorough home inspection.
  - Schedule a final walkthrough to assure the property condition has not changed.
  - Take photos for the buyer at the time of purchase contract as a precaution, in the event the property is not in the same condition at time of closing.
  - Meet all deadlines for inspections and closing.
  - Close on time—penalties may be assessed for delays and extensions, regardless of which party caused the delay.

Offers on Short Sale Properties

- **Making the offer**
  - The offer is made to the seller, who signs the contract, but the lender must approve the sale.
  - Provide a proof of funds and pre-approval for financing with the contract.
  - The contract should have a reasonable chance of closing; offer a fair price—a lowball offer risks a lender turn down; provide a fair amount of earnest money; and carry out the home inspection and mortgage application in a timely manner.
- **What to expect**
  - Although initial response may be timely, it may take a very long time (30–180 days) to receive approval from the lender.
  - Buyer must be flexible on their closing date.
  - Pressure for a quick close after the lender approves the short sale.
  - The property is usually sold in as-is condition; don't expect the seller or lender to make repairs.
  - A seller's acceptance of a contract is contingent on bank approval; the seller's acceptance does not guarantee the lender's approval of the transaction.
- **Protect your client**
  - If the buyer does not want earnest money deposited before the lender accepts the offer, if should be noted on the contract. This could weaken the offer.
  - Try to determine the lender's policy on subsequent offers and try to include a "no subsequent offers" clause in the contract.
  - Check for liens on the property—multiple liens complicate the process.
  - Stipulate in the contract the time frame for submission of the short sale package by the seller, i.e. how long the buyer will wait before withdrawing.
  - Update the CMA on the property. The value can decline during a long wait for lender approval.

Counter Offers

Be ready to implement your negotiating strategy when the seller makes a counter offer. Refer back to the scenarios you constructed when developing an offer and negotiation strategy. Does the counter offer match of one of the scenarios? Is it close to aligning with your buyer-client's priorities? Before responding to a counter offer, it's wise to reassess objectives. For example:

- Have circumstances changed to alter the closing date?
- At what point and why would the buyer walk away from this negotiation?
- How important is it to include items such as the ceiling fan, drapes, and other personal property in the purchase contract?

Identify points of agreement and differences between your buyer-client and the seller. Focus the negotiations on areas of disagreement and concentrate on resolving those issues. Although most concessions occur at the closing phases of negotiations, patience and staying focused on objectives achieves the best outcome. Prolonged, incremental negotiating is not without risk. Caution your buyer-clients that the longer negotiation, the greater the risk that a seller may accept a competing offer—just to conclude the deal.

6. From Contract to Close

NATIONAL ASSOCIATION of REALTORS®
Official Designation

ABR®

The buyer and seller have agreed on terms, signed a purchase contract, and the earnest money is sitting in an escrow account. It's time to sit back and wait for closing, right? What more is there to do?

The buyer agent's job has not ended when the contract is signed. Your continued attention to buyer-clients presents another opportunity to prove your value proposition. The reason you are in this business is to represent buyers for compensation. Real estate professionals know all too well that no closing means no compensation. Even with the finish line in sight, buyers can encounter pitfalls that delay or derail the closing. Let's take a look at what the buyer's representatives can do to help their clients complete those final steps to the closing finish line.

Contract Contingencies

Review contingencies with the buyer. Establish a timeline for completing the buyer's contingencies and monitoring the seller's completion. Admonish buyer-clients that the consequences of not complying with the terms of the contract could be a loss of the property and earnest money. You might want to create a Due Diligence Checklist to assist the buyers in ensuring they meet all the deadline dates in their contract.

- Additional information, such as condo docs, must be requested and delivered according to the contract.
- If there is an attorney review contingency, the attorney must be chosen and the contract delivered in a timely manner.

Mortgage Process

Unless the transaction is an all-cash deal, the buyers need to obtain mortgage financing. Buyer's representatives should stay abreast of requirements under the Consumer Financial Protection Bureau's TRID (TILA-RESPA Integrated Disclosure) rule, since most mortgages are subject to TRID.

Mortgage application

In truth, the buyer should take first steps for a successful mortgage approval—well before the loan application—by improving or repairing credit rating issues and debt load. For example, after a period of credit difficulties, it may be best to wait 12 months to apply for a mortgage because barriers usually diminish after a year.

Purchase contracts often stipulate a time frame for making mortgage application. TRID calls for a mortgage application date, a date for the buyer to give their lender of choice their Intent to Proceed, and another date for the Mortgage Approval.

Loan Estimate Comparison

Under TRID, borrowers are allowed to apply for a mortgage from multiple lenders and receive a Loan Estimate from each showing all fees so they can do an "apples to apples" comparison and then choose a lender by giving them "Intent to Proceed."

Buyer should compare critical items on the Loan Estimate, including:

- Loan terms, purpose, produce and loan type.
- Is the rate locked? Did they want it to be?
- Is the loan amount what they are expecting?
- Is the rate fixed or adjustable? What were they expecting?
- Does the loan have a prepayment penalty?
- Is the Estimated Total Monthly Payment acceptable?
- Compare Origination Charges to Loan Estimates from other lenders.
- Is the homeowner's insurance premium accurate?
- Are the property taxes accurate?
- Is the Estimated Cash to Close as expected, and do they have sufficient funds to pay as required?

Mortgage application follow-up

As noted above, after completing the initial mortgage application process, the lender will likely make several requests for additional documentation and information. A prompt response from the buyer keeps the process moving along.

You can help your buyers by providing an advance list of documents that lenders in your area typically request so they can begin compiling the information in order to prepare for a mortgage application. Lender requirements differ, but most require:

- Social security numbers and birth dates
- Photo identification

- Paycheck stubs showing year-to-date earnings
- W-2 or 1099 tax forms for the past two years
- Employer's name, address, and telephone number (current and for the last 2 years)
- Account statements for checking, savings and other accounts
- Statement of current assets (IRA accounts, investment accounts, employee retirement accounts, brokerage accounts)
- Outstanding loan balances and monthly payments along with lender information, such as auto loans, student loans, and credit cards
- Current and previous addresses over the last two years
- Current mortgage balance and payments or the name and address of the landlord and monthly rent payment
- Copy of the purchase contract

Additional Documentation for Some Situations

- Veterans Affairs (VA) Loan Applications require a copy of the borrower's DD214 Form (discharge papers) or a certificate of eligibility.
- Active duty military may also need a power of attorney and an alive and well statement.
- Borrowers who are self-employed or compensated by commission should provide federal tax forms for the last two years along with a current year-to-date profit and loss statement. Employment and business locations of self-employed borrowers must be independently verifiable. Tip income must also be verified.
- Borrowers who are separated or divorced must provide a copy of the divorce decree or separation agreement. Alimony and child support payments count as income; provide proof of payment for the past year.
- Social security, pension, disability or any form of public assistance benefits qualify as income. The borrower must provide a copy of an award certificate or a copy of a check from the issuing agency.

- If the borrower has experienced a bankruptcy or foreclosure judgment within the past 7 years, information about the proceedings must be provided. For bankruptcies, documentation should include a copy of the bankruptcy discharge, a schedule of both debts and assets, and an attorney's letter explaining the outcome of the proceedings.
- If the source of the down payment is a gift or money borrowed from relatives, the lender may request documentation.

Inspections

Home inspections should be scheduled ASAP. The purchase contract will likely stipulate a date by which inspections must be completed. If the inspection turns up major problems, it takes time for the seller to make repairs or renegotiate terms. The buyer should be present at the home inspection, which usually last 2–3 hours.

Buyers should be cautioned to read the language in the sales contract relative to what is covered during the home inspection as well as who is authorized to do the home inspections.

- Does contract call for licensed home inspector, or can anyone do it?
- Is there a dollar amount specified that states that if the deficiencies are less than a XX amount seller will remedy?
- Buyer representatives should counsel their buyers on what is expected after the home inspections are done. Many contracts state something like:

  Buyer agrees that minor repairs and routine maintenance do not constitute defects and are not a part of this contingency. The fact that a functioning major component may be at the end of its useful life shall not render such component defective for purposes of this paragraph.

  A system or item shall be deemed to be in operating condition if it performs the function for which it is intended, regardless of age, and does not constitute a threat to health or safety.

- Consider potential consequences if buyer requests a lot of repairs:
  - Will this give the seller the ability to cancel the contract?
  - Were there multiple offers when the buyer purchased – meaning there could be a back-up offer that could affect the sellers' decisions on making repairs.
  - Is this a buyer's or seller's market?

Property Insurance

Buyers should begin the process of applying for property insurance at the same time that they apply for a mortgage. Homeowner's insurance is required in order for the deal to close.

Insurance Claims History

Stress to buyer-clients that they should apply for insurance coverage without delay after signing a purchase contract. The lender will not permit the closing to proceed if the buyer is unable to obtain or afford adequate property insurance or if a higher premium is needed and the buyer no longer qualifies.

It may come as a surprise to buyers to learn that the loss claims made by previous owners are used to calculate premium rates and even to deny coverage in some instances. The insurers look at the history of the property; for example, is it in an area susceptible to destructive weather events? As a contingency, the buyers can request the sellers to provide an Insurance Claims History report on the property detailing the most recent five-year history of property claims. The sale can be contingent on a home inspection ensuring that problems identified in the report have been repaired.

Insurers also look at a potential policy holder's credit score when deciding whether or not to offer coverage and determining premium rates. Insurers feel that someone who has a low credit score, indicative of poor credit management, will be less likely to do needed upkeep.

Flood Insurance

During the inspection or due diligence period, the buyer should determine if the property is located in a mapped flood plain and investigate the cost and availability of flood insurance, which will likely be required if the buyer is obtaining financing.

For information and updates, go to the official site of the National Flood Insurance Program at *www.floodsmart.gov* or NAR's NFIP Toolkit at *www.realtor.org/topics/national-flood-insurance-program-nfip/nfip-toolkit*.

Title Insurance

Title insurance is a type of coverage that is often misunderstood. Who is covered for what loss? Imagine this scenario: a few weeks after moving into a new home, a man knocks on the door. He informs you that the sale was fraudulent and that he is the rightful owner. Title insurance protects the policy holder—the lender or borrower—from losses resulting from defects in the title. Lender title policies protect the lender and owner title policies protect the homeowner.

- **Lender's title policy**

  The lender's policy insures the validity and enforceability of the mortgage document. This guarantee makes it possible to sell the mortgage in the secondary market. The value of the policy equals the amount of the mortgage. The lender will probably use a designated company to write the lender's title policy.

- **Owner's title policy**

  Title insurance protects the buyer's ownership right to the home, from both fraudulent claims and mistakes (such as an inaccurate description of the property) made in earlier sales. It's a one-time cost based on the price of the property. Title insurance is particularly important for buyers who purchase homes in foreign countries, e.g. Mexico, where property records can be murky or nonexistent. Title insurance is a good idea even for new construction. Even though the home is new, the land isn't. There may be claims on the land or liens placed during the construction.

The buyers may wish to include provision of an owner's title policy in the purchase contract, to be paid by the seller, although this can vary depending on your state and local customs. Home buyers can—and should—shop around for the best rates. Title insurance is a very competitive business and a search on the Internet for owner's title insurance brings up numerous hits.

No Changes in Financial Picture

Warn buyers not to make any changes in their financial picture between contract and closing. Lenders recheck credit and employment shortly before closing and a loan commitment could be rescinded if there is a change. This includes:

- Opening new credit accounts – even those they do not have to start paying on for many months
- Adding additional charges to current accounts
- Closing existing credit accounts
- Changing jobs

What are some common missteps that lead to changes in the buyer's financial picture and jeopardize closing?

Pre-Closing Walk-Through(s)

Most purchase contracts entitle the buyer to a walk-through inspection of the property before closing. It is important that buyer do this personally. The buyer's representative can accompany but should not do the walk-through for the buyer-client.

The purpose of a pre-closing walk-through is to:

- Check that the condition of the home is in the same condition as the day the buyer made the offer
- Ensure that the seller has vacated the property and left it in the condition specified in the sales contract
- Check that agreed repairs have been performed

In case there are major problems, the buyer can ask to delay the closing or request that the seller deposit money into an escrow account to cover the necessary repairs. In such case, be sure the buyer is the one making decisions, and recommend they seek appropriate counsel.

Data Security

Real estate professionals often collect a lot of personal information about clients and customers in the course of finding them the right home. In this age of digital recordkeeping, your office policies should include standards and procedures for collecting, sharing, destroying, and protecting customer and client information. A data security plan includes protecting the security, confidentiality, and integrity of data, as well as disposing of it properly when no longer needed. The Federal Trade Commission recommends five key principles for a sound data security program:

1. Take stock: know what personal information is in office files and computers and who has access.
2. Scale down: keep only what is needed for business.
3. Pitch it: properly dispose of information that is no longer needed.
4. Lock it: protect the information that is kept.
5. Plan ahead: create a plan to respond to security breaches.

For a free *Data Security and Privacy Toolkit* with information about state laws and pending federal regulations as well as guidance and checklists for drafting a security program tailored to the operations of the company visit *www.REALTOR.org/law-and-ethics/nars-data-security-and-privacy-toolkit*.

When Appraisal Derails Closing

When properties appraise below the agreed sale price it's a big headache for buyers, sellers, and real estate agents. The transaction comes to a halt until the issues can be resolved. How?

The first step is helping the buyer understand the contract, including any appraisal and financing contingencies, so they can evaluate their options before deciding what to do next.

Before going to bat for the buyer to save the deal, make sure it's what they want. One option may be to walk away. If an appraisal contingency allows, the buyer may elect to cancel the contract and receive a refund of their earnest money.

If the buyer wants to go forward, here are some options to consider:

- Check the appraisal report for errors like mistakes in square footage or overlooking a room.
- Ask the appraiser to review and revise their report and value estimate using different comps, but note that anecdotal evidence from many real estate professionals, however, attests that revisions are rare unless the error is really glaring.
- Ask for a second opinion review appraisal.
- Is the appraisal too low or is the home is overpriced? Renegotiate the sales price.
- The buyer pays the difference in cash.

Prepare the Buyer for Closing

Preparing the buyer for what will take place at the closing reduces stress and facilitates a no-problem settlement process. Counsel buyer-clients how to prepare, who will attend, and what to expect when closing.

The closing process varies depending on factors such as state law, local custom, and whether financing is involved (and even the type of financing).

- In accordance with TRID guidelines, the buyer must receive their Closing Disclosure 3 business days prior to signing loan documents. The buyer should verify that the Closing Disclosure matches the Loan Estimate and verify additional items:
  - Check spelling of names
  - Check that loan term, purpose, produce and loan type match Loan Estimate
  - Check that loan amount and interest rate match Loan Estimate
  - Verify that estimated total monthly payment matches Loan Estimate
  - Check that closing costs match Loan Estimate
  - Verify that cash needed to close matches Loan Estimate
  - Check that any Seller Credits reflect what you agreed on with the seller

How to Prepare

In the days before closing and/or signing loan documents, buyers should gather all the paperwork accumulated throughout the buying process and additional documents which may be needed, such as:

- Identification—photo ID document
- Loan Estimate
- Purchase contract
- Proof of title search and title insurance
- Proof of homeowners insurance and other insurance certificates
- Home appraisal
- Home inspection reports

- Certified, cashier's check or wired funds for the down payment, closing costs, and any other money paid at closing. Verification of how the funds need to be transmitted should be done with the title company or lender.

Who Attends?

Closing procedures vary from state to state (and even county to county). The following parties may attend closing/signing:

- The buyer—referred to as the mortgagor
- The seller
- Real estate agents for both the buyer and seller
- Closing agent—usually an employee of the title company
- The lender—referred to as the mortgagee
- Attorneys—for both the buyer and seller.
- Title company representative, to provide written evidence of the ownership of the property.

What to Expect

Ownership of the property will be transferred to the buyer on closing day. Any changes to the transaction must be made prior to closing. The closing agent makes sure that all documents are signed and sent for recording and that closing fees and escrow payments are paid and properly distributed. If not completed previously (depending on state law) the buyer should be prepared to:

- **Sign legal agreements**
  - Between the buyer and the seller transferring ownership of the property.
  - Between the buyer (the mortgagor) and the lender (the mortgagee) agreeing to the terms of the mortgage loan.

- **Pay for the down payment and closing costs**
  - Closing costs are paid out of pocket or rolled into the principal balance of the new mortgage.
  - Shortly before the closing, the buyer should receive an updated estimate of any funds due prior to closing and instructions on how to make the payment.
- **Receive the keys**
  - The buyer receives the keys to the property according to the terms of the contract as well as copies of the closing documents.
- **Receive and inspect copies of closing documents**
  - Settlement statement itemizing all the costs associated with closing and money exchanged between the buyer and seller.
  - Closing Disclosure stating the loan terms, projected payments, closing and loan costs, and a summary of the transaction.
  - Property deed transferring ownership to the buyer.
  - Affidavit statements by either party; e.g., the sellers may provide an affidavit stating the property is free from liens.
  - Proration agreements showing how costs like property taxes will be divided between the buyer and seller.
  - Tax and utility receipts.
  - Abstract of the Title search showing the history of ownership for the house.

After the Closing

In the flurry of closing a transaction and moving to a new home, important paperwork from the transaction can be misplaced. Perform a valuable service for your buyers by providing them with electronic copies of all documents. For another touch point, put copies of the paperwork in an envelope marked for January mailing and addressed to buyers. They will need the paperwork when they file their taxes. This service may be the distinction that makes the buyers think of you when they think “real estate.”

Closing Gift Ideas

Buyer's reps frequently give their clients an appropriate thank-you gift. Flowers and gift baskets are always welcome. But there are also countless other ways to say thanks:

Re-key the locks
Help your buyers relish in the feeling that the home is now "theirs" by having all the locks re-keyed.

Home improvements
Take care of those small "fixes" by paying for a local handyman's services. Or take advantage of discounted Lowes gift cards through LowesRealtorBenefits.com.

Community connections
If buyers are new to the area, help them feel at home with a subscription to a magazine or newspaper featuring local happenings, membership in a nearby museum, or gift certificates for local businesses.

Cleaning service
Arrange for a cleaning service to help make things sparkle.

Dinner, delivered
Offer to provide a special "welcome home" dinner for your buyers, delivered to their door.

Landscaping
If it's a new home, leave a lasting impression with an attractive shrub, a small tree, or a gift certificate to a local nursery.

Night out
Depending on your buyers' personal interests, provide tickets to a special event, such as a musical performance or sporting event.

Home furnishings
Help the owners decorate their new home with a gift certificate to a framing gallery or a home furnishings store.

Safety essentials
A first-time homeowner, in particular, may appreciate a first-aid kit, a fire extinguisher, or new smoke alarms, including carbon monoxide detectors.

Charitable thoughts
Show your support for others in need by making a charitable donation in your buyers' names.

Moving day care package
Provide a moving-day care package, including items that may come in handy such as a tool kit, box cutters, cleaning supplies and arrangements for a pizza delivery.

Time to relax!
After moving day, help your buyers relax with a trip to a spa, a day on the golf course, or some other special treat.

Perhaps the best way to say thanks is to listen to your clients throughout the purchase process. Pay attention to what they admire—particularly if it pertains to their new home. For example, if they can't wait to enjoy their new fireplace, a set of new fireplace tools may be the perfect gift.

Exercise: Stay in Touch

Considering the lifestyles and stages of these buyers, how would you stay in touch and top-of-mind? What information would be valuable to them?

Darrell and Melissa

- **Examples**: Provide information about community events and services.
- Patronize the businesses where they work.

Jim and Amy

- **Examples**: Provide information on remodeling projects that add to resale value.
- Connect Jim's mother with senior services and events.

Robert and Patricia

- **Examples**: Offer an annual no-cost CMA.
- Invite them to a client-appreciation event and invite them to bring a guest.

Christina

- **Examples**: Keep in touch through your blog.
- Add her parents to your newsletter list.

Client Feedback Form

Our business relies upon the satisfaction and referrals of our clients. Please take a moment to tell us how we did by indicating how strongly you agree or disagree with the following statements about your buyer's agent:

	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
Needs and Goals Listened to and understood our property objectives.					
Property Search Simplified and improved the process of locating properties that met our needs.					
Responsiveness Responded to inquiries within a reasonable time period.					
Knowledge Was able to answer all questions and offer additional expert guidance.					
Negotiation Skills Provided important market information that helped structure our offer, as well as valuable negotiating advice and support.					
Transaction Management Stayed on top of all important details and kept the transaction on track.					
Referrals Would recommend our agent to others.					

ABR® Designation Course

Please share any additional feedback or details:

_____

_____

_____

May we use your name and comments in our advertising materials? ☐ yes ☐ comments only ☐ no

Name(s)_____ Your Buyer's Rep_____

Address _____ Phone _____

Thank you for your business. Please let us know if we can be of further assistance.

When you have met all ABR® designation requirements and REBAC confers the designation to you, you can access these consumer one-sheets at www.rebac.net. Sign in with the REBAC membership ID number you will receive after REBAC processes course completion information.

ABR® empowered by REBAC

Resources

Prospect ID Form **158**

Sample Agency Disclosure and Brokerage Fee Agreement for Unlisted Property **159**

Buyer Needs Assessment Worksheet **160**

Buyer Information and Disclosure Checklist **162**

True Cost of Homeownership **163**

Make These Scripts Your Own **165**

Prospect ID Form

Place Your Logo Here
Branch address

This form is designed for your safety and security, along with that of property owners and our agents. We appreciate your consideration and cooperation. All security information is confidential and will not be sold or used for solicitation purposes. The information may be subject to verification. Completed forms are kept in the branch office.

Agent's name: _____ Date: _____

Prospect Information

Your Name(s): _____ _____

Home Address: _____

_____

Phone #: Home: _____ Work: _____

If from out of town, local contact phone#: _____

Local Address: _____

_____

I (we) can be contacted at this location until: _____

Employer: _____

City, State: _____ Employer's phone #: _____

Auto

Make and model: _____ Color: _____

Owner: _____

License #: _____ State: _____

Photocopy Driver's License(s) or other Photo ID(s) and attach to this form.

Sample Agency Disclosure and Brokerage Fee Agreement for Unlisted Property

Seller acknowledges that _____Buyer Broker) has been retained by Buyer to represent Buyer and has designated one of its sales agents as Buyer's Designated Agent (Buyer's Agent). Seller understands that Buyer's Agent is the agent of the Buyer with a duty to represent the Buyer's interests. Seller further understands that the Buyer Agent is NOT the Seller's agent and that any information given to the Buyer's Agent by the Seller will be disclosed to the Buyer if it is in the Buyer's best interests.

If this showing results in an offer to purchase by Buyer, the seller agrees to pay the Buyer's Broker on behalf of the Buyer _____% of the sale price. Seller acknowledges that the payment constitutes an economic adjustment in the transaction and does not create any agency relationship between the Seller and the Buyer's Broker or Buyer's Agent.

Seller shall complete all disclosure reports required by law, including but not limited to the Residential Real Property Disclosure Report and the Lead-Based Paint Disclosure and authorizes Buyer Agent to make all disclosures available to the Buyer.

Dated: _____

_____	_____
Seller	**Broker**
_____	_____
Seller	**Designated Agent**
_____	_____
Property Address	**Company Name**
_____	_____
City, State, Zip	**Company Address**
	_____
	City, State, Zip
Phone: _____	**Phone**: _____
Fax: _____	**Fax**: _____

Buyer Needs Assessment Worksheet

Name(s)		
Current Address:		
Phone Numbers:	Home: _____ Work: _____ Mobile:_____	Home: _____ Work: _____ Mobile: _____
Fax Numbers:		
E-Mail:		
Preferred contact method(s):	☐ Phone: _____ ☐ Mobile _____ ☐ E-mail: _____	

Family size: _____ Pets: _____

Currently: ☐ Own ☐ Rent ☐ Must sell to purchase?

Desired possession date _____

Mortgage: ☐ Prequalified ☐ Pre-approved

Lender: _____

Ideal Price:_____ Ideal Monthly Payment: _____

Ideal Location: _____

# of Bedrooms: _____ # of Bathrooms: _____
Minimum: _____ Minimum: _____

Lot size: _____

Garage: _____How many vehicles? _____

Parking Space: ☐ Boat ☐ Camper ☐ Bus/truck ☐ _____

Age of home:_____ Style: _____

☐ Eat-in kitchen	☐ Finished basement	**Special requirements**
☐ Separate dining room	☐ Fenced yard	☐ Day care facilities
☐ Family room	☐ Deck/patio	☐ Elder care
☐ Fireplace	☐ Pool	☐ Cultural activities
☐ Workshop	☐ Waterfront	☐ School requirements
☐ Home office	☐	☐ Sports/recreation
☐ Home business	☐	☐ Public transportation

The ideal home: _____
_____

How long have you been looking for a home? _____

How have you been looking? _____

Did you see anything you liked? _____

What kept you from buying it? _____

Have any agents shown you homes? _____

What was your relationship with the agent? _____

What did you sign with the agent? _____

If we cannot find everything in the price range and location you want, what would you consider compromising on? _____
_____

Are some features “deal breakers” that you won’t compromise on? _____
_____

Is there anything else I should know about your requirements? _____
_____

Buyer Information and Disclosure Checklist

☐ **Agency disclosures made**
(Disclosure if agent interest, if applicable)

- ☐ Agency disclosure form signed
- ☐ Dual Agency – form signed
- ☐ Discussed Compensation
- ☐ _____

☐ **Disclosure of stigmatized properties**

- ☐ _____
- ☐ _____

☐ **Property disclosures given**

- ☐ Seller disclosure
- ☐ Mold disclosure
- ☐ Radon disclosure
- ☐ Other _____

☐ Recommended buyer obtain insurance during mortgage contingency

☐ Recommended attorney – list given

☐ Recommended home inspection – list given

☐ Recommended home warranty

☐ Possible tax issues: increase, senior exemption, non-owner occupied, new

☐ Sex offender registration information given: website, police department

☐ Googled address of property prior to contract

☐ No change to credit between contract and closing

☐ Confidentiality of offer not guaranteed

☐ Other: _____

_____

_____	_____
Buyer	Agent
_____	_____
Buyer	Date

Compliments of Madison Seminars

True Cost of Homeownership

One-Time Expenses

Appliances
Will the appliances in the home need upgrading—now or in the near future. Don't forget to check out the water heater and HVAC.

Furniture
If you move from a one-bedroom apartment to a three-bedroom house, you will probably need more furniture to fill it. Evaluate furniture needs and costs for your new home.

Remodeling.
Before purchasing a home that needs remodeling, ask a contractor give you an estimate. Homeowners often underestimate the costs.

Ongoing Expenses

Principal, interest, taxes, and insurance (PITI)
If you have a fixed rate mortgage, the payment will remain the same for the life of the loan. Taxes and insurance may increase.

Homeowner Association Fees
Fees or assessments for a condo, townhouse or single-family home with an association can increase yearly. Compare fees of similar properties line-by-line. Check what the fee includes; for example, utilities gas, electricity, garbage pickup, and water. Watch out for special assessments for capital repairs and improvements to common areas.

Exterior maintenance
Replacing the roof, painting the siding or trim, sealing the driveway, sealing the deck and repairs, replacing windows, gutter cleaning or repair, septic and well maintenance are just some of the additional exterior maintenance costs in owning a home. Some maintenance jobs you can do yourself, but other jobs require professionals. Don't forget the tools that go along with these maintenance jobs: lawn mowers and trimmers, power washers, compressors, heavy-duty ladders, and power tools.

Interior maintenance
If you've been renting, your landlord probably picked up the tab for repairs and general maintenance. Once you own your home you'll be footing the bill. You will need to maintain **a**ppliances, plumbing and electrical systems, carpets, floor and wall coverings, and so on.

Utilities
If you are renting you're probably used to budgeting for utilities. But the cost of heating a one-bedroom apartment can pale in comparison with the bills for an entire house. A real estate professional can help you find out about the current occupant's costs but family size and usage impacts those numbers.

Yard care and snow removal
Plan on buying a lawnmower and other landscaping tools or budget for a professional lawn service. Include a snow shovel or snow blower if you live in a cold climate.

Pest control
Depending on location, be sure to schedule a termite inspection before you purchase a home. Purchasing a termite infestation bond may be in order. Even if there is no infestation at the time of the inspection, that's no guarantee these or other pests won't show up.

Transportation Costs
Don't forget to calculate transportation costs whether by public transportation or your own vehicle. Budget for gas, oil, insurance, tires, and regular maintenance. Will you need to purchase another car to take care of all of the family's transportation needs?

Make These Scripts Your Own

The following questions asked by buyers probably sound familiar to you. Ready answers to buyers' frequent questions enhance your presentations by demonstrating your experience and professionalism. Knowing you'll never be at a loss for words, builds your confidence.

- **If I sign an agreement, am I locked in? Is this an open-ended commitment?**
  A. In my company, most buyer representation agreements last for 2–3 weeks with the option to renew. Of course, if you are dissatisfied with the arrangement, you always have the choice to cancel the agreement. Keep in mind, however, that in this marketplace, buyers typically take 10–12 weeks to find a home.

- **I'm interested in new homes and the developers all say I can work directly with them.**
  A. You certainly can, but if you ever needed an agent on your side it is when you are buying from a "professional seller" such as a builder. My job is to point out the pros and cons of what the builder is offering, such as: is the premium they charge for the corner lot likely to pay off when you sell? I can help you buy smart and potentially save you thousands in the long run.

- **I can find properties on the Internet. I just need you to get me in the door.**
  A. What you find on the Internet are advertised properties—not necessarily all the properties available. I have access to the MLS with real-time information on the latest listings including new on the market and price changes. I also have relationships with agents in other offices who may have listings that are not even advertised. Even in a buyer's market there are homes selling daily that you might never see if you wait for them to show up on the Internet; they're selling before they even get there.

- **I would like you to work for me, but I don't want to sign anything. A handshake is enough and I can trust you, right?**
  A. You certainly can trust me and I feel that I can trust you as well. That said, I can only work with (3, 4, 5) buyers at a time if I am going to give them the service I am committed to giving and they are entitled to. I only work with buyers with whom I have a contract, which protects their interests. Let me explain how.

- **If your commission is based on the sale price, how can I be sure you will try to get me the best deal?**
  A. Because I am your agent, I must put your interests ahead of everyone else's. I would never violate my duties to you or jeopardize my commission for the small portion earned off the "negotiating room" on your $200,000 purchase.

- **I don't want to pay a fee to an agent. The seller pays your commission, right?**
  A. You do not "pay" me out of your pocket; my fee is a part of the exchange of monies at closing. Although the commission is taken from the seller's sale proceeds, when you think about, you are paying the commission in the amount you offer and the mortgage you are taking out on the property. You put the money on the table at closing.

- **If sellers can go FSBO why can't I make a purchase on my own?**
  A. My job is to protect your interests and help you acquire all the information you need to make an educated decision. Once we've determined the value of a piece of property, I will help you negotiate the best price and terms. After that, I'll keep an eye on the transaction details through the closing and until you move in.

- **The sales agents who show me property are really nice, why do I need a buyer's rep?**
  A. Most of those agents are listing agents. Being nice is their job but they are looking out for the best interests of the seller, not yours. You want someone working for you and helping you get the best price on the right house.

- **I don't like to make a commitment to just one agent. I like to keep my options open.**
  A. You are more than welcome to work with more than one agent at a time. Each of us has access to the same inventory of property on the MLS. But with all of us calling you to look at the same houses you could waste a lot of time. Bottom line, you'll get much better service from one agent who is committed and loyal than from many of us. I owe it to the buyers I am working with now not to take time away from them for buyers who are working with many agents at the same time.

- **I want to find a really good deal! What can you do for me?**
  A. My knowledge of the market and ability to research available properties will give you ample choices of properties that are potential good deals including distressed properties. I can give you the advice you need to make an offer and negotiate a favorable combination of price and terms.

- **Is your commission negotiable?**
  A. This is the fee that the company has determined is fair for the services we provide. And remember, no fee is earned until we have a completed transaction. My compensation is paid at the closing.

- **Do I have to pay a fee if I don't buy anything?**
  A. With our company you do not. But, if you are serious about looking for a home and need to purchase, what would stop you from buying?

- **What if I don't like working with you? How do I get out of this?**
  A.. If at any time you are unhappy with my services, you can speak with my broker. She will resolve the issues by assigning a different agent or cancelling your agreement.

- **The market is kind of confusing right now. How will you help me decide how much to offer?**
  A. I will do a comparative market analysis before you make an offer on a property so that you will know facts like: fair market value, number and prices of similar homes for sale, time on the market, and any information about the seller and the property condition that is available. All of that information will help us formulate an offer.

- **I heard that dual agency is not good for a buyer**.
  A. That depends on the buyer. If you are new to the area or have never owned a home, I might agree with that. You, however, have lived here all your life and have a good feel for the market. A dual agent will always give you all information about the property but cannot give you confidential information about the seller or recommend an offer price. If we do find one of my listings you want to buy, I will do a CMA so you can decide what price to offer.

- **If every agent has access to the MLS, what is the advantage of working with you?**
  A. Helping you buy a home is more than just finding one. My expertise includes negotiating, following up from contract to closing and working with the attorneys, title companies and other agents in the marketplace. You want to work with someone who understands what it means to “play well with others” but always puts your interests first. That’s my specialty.

Ask Your Broker

Make a note of important questions, issues, and clarifications to discuss with your broker or office manager.

- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____