

The RI Association of REALTORS®

PRESENTS

Rhode Island Real Estate Representation Brochure

A practical guide for the consumer

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A real estate brokerage firm and its licensees can provide valuable real estate services to buyers/tenants and sellers/landlords, whether in the form of basic customer services or at a higher level by providing you with client representation. The services you can expect will depend upon the relationship that you select with the brokerage firm and one or more of its affiliated licensees.

YOU ARE NOW A CUSTOMER

Rhode Island law requires **all** real estate licensees to perform certain basic duties when dealing with any buyer/tenant or seller/landlord. You can expect all real estate licensees to provide the following customer level services:

- To perform ministerial/customary acts to assist the buyer/tenant or seller/landlord in the sale, purchase or rental of real estate;
- To perform these acts with honesty, good faith, reasonable skill and care;
- To properly account for money or property placed in the care and responsibility of the brokerage;
- To disclose to the buyer/tenant and/or seller/landlord all adverse material facts about the property which are actually known by the licensee;

If a buyer/tenant, or seller/landlord is **not** represented by a brokerage firm in a real estate transaction, that buyer/tenant or seller/landlord remains a customer, and as such, the brokerage and its licensees are “transaction facilitators” and owe you the legal duties and obligations described above.

A “transaction facilitator” does not have a duty to conduct an independent inspection of the property for the benefit of a buyer/tenant and owes no duty to verify independently the accuracy or completeness of any statement or representation made by the seller/landlord or any source reasonably believed by the licensee to be reliable.

A “transaction facilitator” owes no duty to a seller/landlord to conduct an independent investigation of the buyer’s financial condition for the benefit of that seller/landlord and owes no duty to verify independently the accuracy or completeness of statements made by the buyer/tenant or any source reasonably believed by the licensee to be reliable.

In case of a rental, it is customary that a landlord request a rental application from the prospective tenant. In such an application, the tenant may be asked to authorize a credit report and/or criminal background check that the licensee will convey to the landlord as well as a check of references the tenant may provide. However, that particular information is considered confidential and will not be shared with anyone else except the landlord without the written permission of the prospective tenant.

Unless you have signed a Mandatory Real Estate Relationship Disclosure Form that states that the brokerage firm is working with you as a Seller/Landlord Representative or Buyer/Tenant Representative, you are considered a customer of the brokerage, and the brokerage will NOT act as your representative. As a customer, you should NOT expect the brokerage or its licensees to promote your best interest, or to keep your bargaining information confidential.

YOU MAY BECOME A CLIENT

If offered by the real estate brokerage, you may sign a written Representation Contract, as well as the Mandatory Disclosure form acknowledging that the licensee will act on your behalf and promote your best interests as their “Client”. You are **not** required to sign a contract, but the contract will more specifically describe all the services and limitations of services provided to you. It must also have a time frame for your representation, and will detail how the licensee will be compensated. As a client, you can expect the following services, in addition to the basic duties and requirements provided to a customer:

- To provide the services described in a client relationship contract with reasonable skill and care; provide you with advice and counsel; negotiate on your behalf;
- To promote your best interest in good faith and honesty;
- To maintain the confidentiality of your specific client information, including bargaining information, financial information, motivational information, even after the representation period has ended.

When the Seller/Landlord and Buyer/Tenant are Represented by a Licensee or Licensees within the Same Brokerage

There are times when the brokerage may be working with both you and the other party in the same transaction.

If a buyer/tenant client who is represented by a buyer/tenant representative wishes to purchase/lease a property from a seller/landlord client who is represented by a seller/landlord representative who is affiliated with the same brokerage firm, the buyer/tenant representative may continue to represent the buyer/tenant, and the seller/landlord representative may continue to represent the seller/landlord in that transaction. The principal broker or a designee of the principal broker will oversee the entire transaction as the neutral “Transaction Coordinator” to ensure confidentiality is maintained for all parties.

If a buyer/tenant client wishes to make an offer on a listing in which his/her representative is also representing the seller/landlord then the individual licensee can no longer provide either party with full representation. At this point, his/her representative becomes a neutral transaction facilitator for both parties, called a "Neutral Dual Facilitator." In this case, the principal broker or a designee of the principal broker once again oversees the entire transaction as a neutral "Transaction Coordinator" This is only allowed with the consent of all parties involved, including the principal broker. You would be asked at this time, prior to discussing the terms of an offer, to sign a *Dual Facilitator Consent Form*.

You should be aware that under the law a neutral dual facilitator is not allowed to prepare a new market analysis for either party. In the event that any of the parties do not consent to dual facilitation then the principal broker may designate another licensee within the brokerage to represent that party, with their consent, to ensure that both parties receive representation.

This new law that became effective on May 1, 2008, enhances the rights and protections for all consumers in the real estate transaction. It allows buyers/tenants and sellers/ landlords to have equal rights to representation and establishes clearer, enforceable standards of confidentiality for the consumer.