

# Dual Agency Roles

Berkshire County Board of REALTORS®, Inc. (413) 442-8049



## Duties & Limitations of Licensees Acting as a Dual Agent

When a BUYER is represented by a brokerage firm and becomes interested in a property which is owned by a SELLER who is represented by the same firm, this creates dual agency situation.

A broker can work for both the BUYER and the SELLER on the same property, provided they obtain the informed consent of both parties. The broker is then considered a **disclosed dual agent** and will provide **limited representation** to both BUYER and SELLER but can no longer fully represent either party.

### A Disclosed Dual Agent MUST do the following:

1. Treat both clients honestly.
2. Disclose all latent material defects of the property to the buyer, which are known to the licensee(s).
3. Convey all offers and counteroffers forthwith
4. Maintain confidential information, except where the disclosure is required by law, to prevent illegal conduct, to prosecute or defend a claim or if the information becomes public from a source other than the real estate licensee

### Preservation of CONFIDENTIAL Information: A dual agent cannot disclose:

1. That the Seller will accept less than the listed price and terms and conditions;
2. That the Buyer will offer more than the offered price, terms, and conditions;
3. The Buyer or Seller's motivation, need or urgency to sell or buy;
4. The terms of any prior negotiation in which the Seller or Buyer have been involved.

The duty to preserve confidential information shall continue after the termination of the brokerage relationship.

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#### A Dual Agent CANNOT do the following

1. Recommend an offer price or terms to the BUYER or a counteroffer price or terms to the SELLER
2. Provide advice advocating the interest of either party.
3. Negotiate on behalf of either the BUYER or SELLER.
4. Disclose any information that the BUYER or SELLER requests to remain confidential without that party's express consent - except where the disclosure is required by law, to prevent illegal conduct, to prosecute or defend a claim or if the information becomes public from a source other than the real estate licensee.
5. Act or work contrary to the instructions of either party

#### A Dual Agent CAN do the following:

1. Provide factual information about the property to the BUYER
2. Disclose financial qualifications of the BUYER to the SELLER and help the BUYER compare financing alternatives.
3. Explain real estate terms and procedures.
4. Arrange for showings and property inspections.
5. Provide data on comparable properties that have sold so that both clients may make educated decisions on what price to accept or offer.
6. Assist both parties in completing a purchase contract or fulfilling the terms of a purchase contract, provided it is done in an unbiased manner and no confidential information is used to formulate suggestions or advice.

