

# SAMPLE

Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of agency relationship you have with that licensee. A real estate transaction is a transaction involving the sale or lease of any legal or equitable interest in real estate consisting of not less than 1 or not more than 4 residential dwelling units or consisting of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

An agent providing services under an exclusive service provision agreement owes the following duties to the client: (1) When representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the agreement; (2) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the property the client seeks to purchase, sell, or lease; (3) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related notices or documents until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived; (4) After execution of a purchase agreement, assistance as necessary to complete the transaction under the terms specified in the purchase agreement; (5) Furnishing, or causing to be furnished, a complete and detailed closing statement, pursuant to R 339.22311.

Michigan law requires real estate licensees who are acting as agents of sellers or buyers of real property to advise the potential sellers or buyers with whom they work of the nature of their agency relationship.

A broker or salesperson may function in any of the following capacities:

- represent the seller as an authorized seller's agent or subagent
- represent the buyer as an authorized buyer's agent or subagent
- represent both the seller and buyer as a disclosed dual agent, authorized by both the seller and buyer
- represent neither the seller or buyer as an agent, but provide services authorized by the seller or buyer to complete a transaction as a transaction coordinator.

### SELLER'S AGENTS

A seller's agent, under a listing agreement with the seller, acts solely on behalf of the seller. A seller can authorize a seller's agent to work with subagents, buyer's agents and/or transaction coordinators. A subagent of the seller is one who has agreed to work with the listing agent, and who, like the listing agent, acts solely on behalf of the seller. Seller's agents and their subagents will disclose to the seller known information about the buyer which may be used to the benefit of the seller.

The duties that a seller's agent and subagent owes to the seller include:

- promoting the best interests of the seller
- fully disclosing to the seller all facts that might affect or influence the seller's decision to accept an offer to purchase
- keeping confidential the seller's motivations for selling
- presenting all offers to the seller
- disclosing to seller all information known to the seller's agent about the identity of all buyers and the willingness of those buyers to complete the sale or to offer a higher price.

### BUYER'S AGENTS

A buyer's agent, under a buyer's agency agreement with the buyer, acts solely on behalf of the buyer. A subagent of the buyer is one who has agreed to work with the buyer's agent and who, like the buyer's agent, acts solely on behalf of the buyer. Buyer's agents and their subagents will disclose to the buyer known information about the seller which may be used to benefit the buyer.

The duties a buyer's agent and subagent owe to the buyer include:

- promoting the best interests of the buyer
- fully disclosing to the buyer all facts that might affect or influence the buyer's decision to tender an offer to purchase
- keeping confidential the buyer's motivations for buying
- presenting all offers on behalf of the buyer
- disclosing to the buyer all information known to the buyer's agent about the willingness of the seller to complete the sale or to accept a lower price.

### DUAL AGENTS

A real estate licensee can be the agent of both the seller and the buyer in a transaction, but only with the knowledge and informed consent in writing, of both the seller and the buyer.

In such a dual agency situation, the licensee will not be able to disclose all known information to either the seller or the buyer. As a dual agent, the licensee will not be able to provide the full range of fiduciary duties to the seller or the buyer.

The obligations of a dual agent are subject to any specific provisions set forth in any agreement between the dual agent, the seller and the buyer.

### TRANSACTION COORDINATOR

A transaction coordinator is a licensee who is not acting as an agent of either the seller or the buyer, yet is providing services to complete a real estate transaction.

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The transaction coordinator is not an agent for either party and therefore owes no fiduciary duty to either party. The transactional coordinator is not the advocate of either party and therefore has no obligation to "negotiate" for either party. The responsibilities of the transaction coordinator typically include:

- providing access to and the showing of the property
- providing access to market information
- providing assistance in the preparation of a buy and sell agreement which reflects the terms of the parties' agreement
- presenting a buy and sell agreement and any subsequent counter offers
- assisting all parties in undertaking all steps necessary to carry out the agreement, such as the execution of documents, the obtaining of financing, the obtaining of inspection, etc.

### DESIGNATED AGENCY

A buyer or seller with a designated agency agreement is represented only by agents specifically named in the agreement. Any agents of the firm not named in the agreement do not represent the buyer or seller. The named "designated" agent acts solely on behalf of his or her client and may only share confidential information about the client with the agent's supervisory broker who is also named in the agreement. Other agents in the firm have no duties to the buyer or seller and may act solely on behalf of another party in the transaction.

### LICENSEE DISCLOSURE (Check One)

I hereby disclose that the agency status of the licensee named below is:

- Seller's agent **(I will not be representing the buyer unless otherwise agreed in writing.)**
- Buyer's agent
- Dual agent
- Transaction coordinator **(A licensee who is not acting as an agent of either the seller or the buyer.)**
- None of the above

### AFFILIATED LICENSEE DISCLOSURE (Check One)

- Check here if acting as a designated agent. Only the licensee's broker and named supervisory broker have the same agency relationship as the licensee named below. If the other party in a transaction is represented by an affiliated licensee, then the licensee's broker and all named supervisory brokers shall be considered disclosed consensual dual agents.
- Check here if not acting as a designated agent. All affiliated licensees have the same agency relationship as the licensee named below.

Further, this form was provided to the buyer or seller before disclosure of any confidential information.

\_\_\_\_\_  
Licensee **Gordon Libby/Libbys Home Sales** \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Licensee \_\_\_\_\_ Date \_\_\_\_\_

The undersigned \_\_\_\_\_ DOES \_\_\_\_\_ DOES NOT have an agency relationship with any other real estate licensee. If an agency relationship exists, the undersigned is represented as \_\_\_\_\_ SELLER \_\_\_\_\_ BUYER.

### ACKNOWLEDGMENT:

By signing below, the parties confirm that they have received and read the information in this agency disclosure statement and that this form was provided to them before the disclosure of any confidential information specific to the potential sellers or buyers. **THIS IS NOT A CONTRACT.**

\_\_\_\_\_  
Potential Buyer/Seller (circle one) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Potential Buyer/Seller (circle one) \_\_\_\_\_ Date \_\_\_\_\_

Disclaimer: This form is provided as a service of the Michigan Association of REALTORS®. Please review both the form and details of the particular transaction to ensure that this form is appropriate for the transaction. The Michigan Association of REALTORS® is not responsible for the use or misuse of this form.