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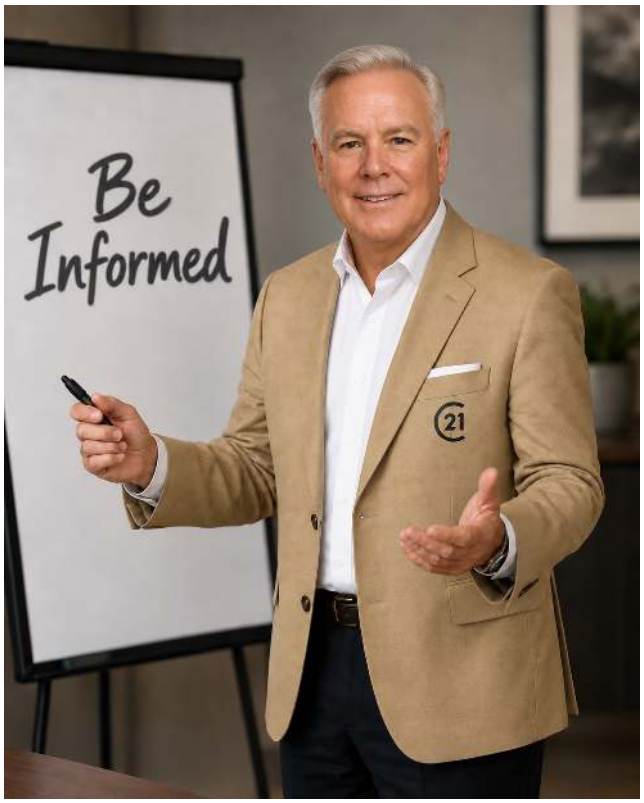
Agency And Non-Agency Relationships



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Prepared for you by Bob Latigona | CENTURY 21 Alliance

NATIONAL ASSOCIATION OF REALTORS®

CONSUMER GUIDE: AGENCY AND NON-AGENCY RELATIONSHIPS

When you are looking to buy or sell a home, you may hear about different types of relationships—agency and non-agency—that exist between buyers and sellers and the real estate professionals they are working with. These relationships are defined by state law and the options available to you vary widely between states, but here are the basics of what to think about:

What does it mean for a real estate professional to be my "agent"? A licensed real estate professional is your agent when you have hired them to represent you as you buy or sell a home. A seller's agent has fiduciary duties to the seller, meaning their job is to work in the best interests of the seller, which usually means the best price and terms. Sellers usually establish this relationship in a listing agreement. A buyer's agent works with the buyer to represent their best interests throughout the transaction. Many buyer's agents—those who are required as a part of the National Association of REALTORS®' settlement of litigation related to broker commissions—will ask the buyer to sign a written buyer agreement establishing the terms of their relationship prior to touring a home.

What different types of agency relationships are there? There are several types, including:

- **Single agency**, when an agent represents only one side of the real estate transaction—buyer or seller.
- **Dual agency**, which allows an agent to represent both the buyer and seller at the same time. In states that permit dual agency status, there is usually a requirement for disclosure and for informed consent from both the buyer and seller. This is because of the potential for conflicts of interest.
- **Subagency**, when an agent works with the seller's agent to help serve the seller's best interests and to bring potential buyers to the seller's property. A subagent has the same fiduciary duties to the seller as the seller's agent, meaning they cannot help a buyer in any way that would be detrimental to the seller. States that permit subagency may require authorization from the seller and for disclosure to be provided to a buyer.
- **Designated agency**, when agents from the same brokerage—a real estate firm—represent both the buyer and seller in the same transaction. Brokerages may assign agents to work exclusively for the buyer and seller to avoid potentional conflicts of interest. States that permit designated agency may require disclosure and consent from both the buyer and seller.

Is it possible to have a non-agency relationship? Yes. In non-agency relationships, the real estate professional provides advice or assistance but does not act on behalf of a buyer or seller and generally has no fiduciary duties to their clients. For example, one type of non-agency relationship is a "transaction broker," also called a facilitator, in which a neutral third party facilitates and negotiates the terms of a property sale. State law determines if non-agency relationships are allowed.

Do I have to enter into an agency relationship? No, your relationship with your real estate professional can be any type—agency or non-agency—that is permitted by state law. However, remember that if you work with a buyer's agent, they may require you to sign a written buyer agreement prior to touring a home.

Where do I find an agent? Find a REALTOR® here to help answer your questions and guide you to make a decision that works for you. REALTORS® have taken a pledge to protect and promote the interests of their clients.

Practices may vary based on state and local law. Consult your real estate professional and/or an attorney for details about state law where you are purchasing a home. Please visit facts.realtor for more information and resources.

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