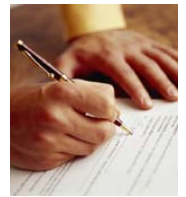




VIRGINIA'S AGENCY LAW



WHICH FORMS DO I USE?

A practical guide for using required forms based on common scenarios.

In 2012, the Virginia General Assembly approved legislation to enhance the agency relationship disclosure requirements between licensees and those they represent. Following the implementation of the new agency law and efforts to educate members on what they need to know to serve their clients and customers and stay in compliance, it came to our attention that there was a great deal of confusion with respect to application of the new agency related forms. For that reason, DAAR's Agency Work Group created this guide to help simplify the decision making process related to utilizing the new forms based on various scenarios noted below:

SCENARIO #1

You are hosting an open house for one of your listings and you are approached by a party interested in information about the property.

If you are representing the seller, you should..

- A. If the intent is for information only, no form is needed, provide the information requested.
- B. If you determine that they might be interested in purchasing the property, ascertain if they are presently represented by another agent. If they are, remind them that you represent the seller and proceed with information. If they are not represented, explain agency, provide them with any literature you use about agency, and have them sign the "Unrepresented Party" form or if permitted by your broker and seller, discuss dual agency and have them sign the dual agency disclosure form and the buyer agent representation agreement.

If you are representing the buyer, you should..

If permitted by your broker and seller, discuss dual agency and have them sign the dual agency disclosure form.



SCENARIO #2

You are hosting an open house for one of your listings and you are approached by a party interested in information about another property.

If you are representing the seller, you should..

- A. If the intent is for information only, no form is needed, provide the information requested.
- B. If you determine that they might be interested in purchasing the property, ascertain if they are presently represented by another agent. If they are, ask them to contact their agent. If they are not represented, explain agency, provide them with any literature you use about agency, and have them sign the "Unrepresented Party" form or the buyer agent representation agreement.

If you are representing the buyer, you should..

N/A



SCENARIO #3

You are making cold calls (after you have verified with the Do Not Call List) to solicit future clients.

If you are representing the seller, you should..

No form is necessary until you have ascertained their interest in selling.

If you are representing the buyer, you should..

No form is necessary until you have ascertained their interest in selling.



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SCENARIO #4

You are approached by a stranger, or answer an inquiry about someone interested in looking at some properties.

If you are representing the seller, you should..

Determine if they are working with another agent. Discuss agency and have them complete and "Unrepresented Party" form or a buyer agency agreement.

If you are representing the buyer, you should..

N/A

SCENARIO #5

You are approached by a stranger, or answer an inquiry about someone interested in looking at your listed property.

If you are representing the seller, you should..

Determine if they are working with another agent. If not, discuss agency and have them sign the "Unrepresented Party" form or if permitted by your seller and broker use a dual agency/ designated agency disclosure form and have them complete a buyer agency agreement.

If you are representing the buyer, you should..

N/A



SCENARIO #6

You are approached by a stranger, or answer an inquiry about someone wishing to see a property listed by your firm.



If you are representing the seller, you should..

Determine if they are working with another agent. If not, discuss agency and have them sign the "Unrepresented Party" form or if permitted by your seller and broker use a designated agency disclosure form and have them complete a buyer agency agreement.

If you are representing the buyer, you should..

N/A

SCENARIO #7

Your Buyer Clients decide they want to sell their home and have you represent them.

If you are representing the seller, you should..

N/A

If you are representing the buyer, you should..

Use the listing agreement.

SCENARIO #8

Your Buyer Clients decide they want to purchase one of your listings.

If you are representing the seller, you should..

Discuss dual agency if permitted by your seller and broker use a dual agency/ designated agency disclosure form.

If you are representing the buyer, you should..

Discuss dual agency if permitted by your seller and broker use a dual agency/ designated agency disclosure form.

SCENARIO #9

Your Buyers decide they want to purchase one of your firm's listings.

If you are representing the seller, you should..

Discuss dual agency if permitted by the seller and broker use a designated agency disclosure form.

If you are representing the buyer, you should..

Discuss dual agency if permitted by the seller and broker use a designated agency disclosure form.

SCENARIO #10

You are asked to assist someone in previewing homes for someone else.

If you are representing the seller, you should..

No form is necessary.

If you are representing the buyer, you should..

No form is necessary.

ADDITIONAL CONSIDERATIONS.....

If a party signs an Unrepresented Party form and in the course of your conversations or meetings it becomes evident that they want or need representation, be sure to get the buyer broker agreement signed. Check the compensation listed in the MLS, a listing agent may not have offered compensation to an agent who is not representing a buyer as a client.

When submitting an offer, what disclosure form or agency form should you include - NONE