

Understand the Risks of Dual Agency

When a licensed real estate professional represents two parties with competing interests in a real estate transaction, it is known as **“dual agency.”** Some examples of dual agency are:

- one real estate professional represents both the buyer and the seller.
- one real estate professional represents two separate buyers who each hope to purchase the same property.

If a real estate professional has asked you to agree to dual agency, consider the risks carefully. Take time to read this important consumer protection information from the Real Estate Council of BC.

Expert advice from a real estate professional who represents *only your interests* can help you navigate the real estate process safely. We urge you to consider getting this type of representation.

Why are you getting this form?

A real estate professional is asking for your permission to represent both you and someone with competing interests to yours in a transaction.

How to use this form:

Read over this information and ask about anything that is not clear to you. You can complete the optional consumer fields to indicate that you’ve discussed this information with the real estate professional.

What happens next?

After you’ve reviewed the form and completed the optional consumer fields, the real estate professional must complete and sign it.

Learn more about this form and other information for real estate consumers at www.recbc.ca.

Dual Agency is Banned in BC in Almost All Cases

Real estate professionals in BC must not engage in dual agency unless **all** of the following requirements are met:

- 1 The property is in a remote location.
- 2 That location is under-served by real estate professionals.
- 3 It would be impracticable (i.e. not possible) for the parties to have different real estate professionals.



All clients must agree to dual agency before a real estate professional can provide dual agency. After considering the risks, it is up to you to decide whether or not you wish to enter into a dual agency relationship with a real estate professional. You are **never** obliged to agree to dual agency.

Dual Agency Benefits Real Estate Professionals

Real estate professionals have a financial incentive for engaging in dual agency. Dual agents usually collect all the commission or payment set out in a listing agreement, buyer agreement, or fee agreement. When the parties in a transaction are represented by separate agents, those real estate professionals usually split the commission.

Dual Agency and Sole Agency: Compare the Services

Dual agency limits a real estate professional's ability to share information with you and give you advice. It prevents them from exclusively acting in your best interests.

DUAL AGENCY When you are represented by a real estate professional acting as a dual agent...	SOLE AGENCY When you are a real estate professional's only client...
<p>A dual agent can't give you any advice on what purchase price you should offer or accept, or what terms you should include in the contract to protect your interests, because that advice could harm their other client's interests.</p>	<p>The real estate professional representing you must be 100% loyal to you and put your interests above all others.</p>
<p>A dual agent balances the duties they owe to you with the duties they owe to their other client.</p> <p>Because your interests and the interests of the other client conflict, it is impossible for the agent to fulfill all the duties they would normally owe you.</p>	<p>The real estate professional must avoid conflicts of interest.</p>
<p>A dual agent can't make full disclosure to you of all material facts in their knowledge. That would breach their duty to protect their other client's confidential information.</p> <p>A dual agent may have information about the other client's motivation, preferred terms, etc., but they cannot share that information with you.</p>	<p>The real estate professional representing you must fully disclose all facts in their knowledge that could affect your decision-making.</p>
<p>A dual agent must protect your confidential information, and the other client's information.</p>	<p>The real estate professional must protect your confidential information. They cannot reveal your motivation for buying/selling/leasing/renting, the minimum/maximum price that you are willing to pay or accept, or other confidential information, without your permission.</p>

If you are **not** currently represented by a real estate professional, consider:

- Will you benefit by accepting the reduced services and duties that a real estate professional can give you in a dual agency relationship?
- Is dual agency the best option in your circumstances? Would obtaining independent representation from another professional be a better option?

If you **are** currently represented by a real estate professional, and they have suggested you switch from a sole agency relationship to a dual agency relationship with them, consider:

- As a dual agent, your real estate professional must significantly reduce their duties and services to you. Is this how you want to be represented?
- Is there a better option in the circumstances? For instance, asking them to continue acting as your sole agent or getting representation from another professional?

Other Options

It is up to you to decide whether or not you wish to enter into a dual agency relationship. You **never** have to agree to dual agency.

Your other options include:

- If you are already represented you can tell your real estate professional you say “no” to dual agency and you want them to continue acting as your sole agent.
- Find another real estate professional to represent you.
- Choose to be an unrepresented party. (Note: there are risks to being unrepresented—so be sure you are informed of those risks.)
- Choose to be represented in the real estate transaction by another professional, such as a lawyer.

If You Choose Dual Agency

After reviewing this information and considering the risks, if you wish to enter into a dual agency relationship with a real estate professional, they should give you a written agreement of dual agency. **Consider seeking legal advice before entering into a dual agency agreement.**

If you are unrepresented and a real estate professional acting for another party is seeking to enter into a dual agency relationship with you, you should not share any confidential information until you sign a dual agency agreement. Until you sign such an agreement, that real estate professional is under no obligation to protect your confidential information, and must communicate all material information to their existing client. Your information could be used in a way that is against your interests.

This disclosure is made to you in compliance with section 5-17 of the Rules made under the *Real Estate Services Act*.

Instructions

The purpose of this form is to confirm that the risks of entering into a dual agency relationship with a licensed real estate professional were fully explained to you, and that you understand those risks.

Consumers: Please complete the optional fields below to indicate that you received this consumer protection information.

Real Estate Professional: Complete and sign to indicate you have provided this disclosure to the real estate consumer. Promptly submit this form to your brokerage.

Mandatory Real Estate Professional Confirmation

I confirm that I have given the consumer:

- a copy of the *Disclosure of Risks Associated with Dual Agency* form.
- information about the concept of dual agency.
- information about the restrictions on dual agency in BC.
- information about how dual agency benefits real estate professionals.
- information stating that they do not have to enter into a dual agency relationship with a real estate professional.
- information about the risks of entering into a dual agency relationship with a real estate professional.
- a copy of a statement signed by my managing broker that sets out how the requirements for engaging in dual agency have been met in this case.

I confirm that I have:

- attached a copy of the signed statement from my managing broker to this form.

Name: _____

Signature: _____ Date: _____

Brokerage: _____

This disclosure is made in respect of a property located at:

Optional Consumer Confirmation

I confirm that the real estate professional gave me:

- a copy of the *Disclosure of Risks Associated with Dual Agency* form.
- information about the concept of dual agency.
- information about the restrictions on dual agency in BC.
- information about dual agency benefits real estate professionals.
- information that explained that I do not have to enter into a dual agency relationship with a real estate professional.
- information about the risks of entering into a dual agency relationship with a real estate professional.
- a copy of a statement, signed by the real estate professional's managing broker, that sets out how the requirements for engaging in dual agency have been met in this case.

I understand that:

- if I enter into a dual agency relationship, I will be giving up my right to the real estate professional's undivided loyalty.
- a real estate professional acting as a dual agent cannot give me advice that could harm their other client's interests.
- I should consider obtaining legal advice before entering into a dual agency agreement with a real estate professional.

Consumer Name: _____

Consumer Signature: _____ Date: _____

Consumer Name: _____

Consumer Signature: _____ Date: _____

Statement of Brokerage**THIS SECTION MUST BE COMPLETED BEFORE THIS DISCLOSURE IS PRESENTED TO THE CONSUMER.****I am satisfied that the criteria set out in section 5-17(1) of the Rules made under the *Real Estate Services Act* are met in this case.**

- The real estate is in a remote location. *[Attach an explanation of how you reached this conclusion.]*
- The location of the real estate is underserved by licensed real estate professionals. *[Attach an explanation of how you reached this conclusion.]*
- It is impracticable for the parties to be provided with trading services by different real estate professionals. *[Attach an explanation of how you reached this conclusion, including the alternatives to dual agency that you considered and the reasons those alternatives were rejected.]*

Managing Broker Name: _____

Signature: _____ Date: _____

Brokerage Name: _____

CONSUMER PRIVACY NOTICE

A real estate professional is providing you with this form because they are required to do so by the Rules made under the *Real Estate Services Act* (the "Rules"). **You are not required to provide your name or signature on this form.** However, the real estate professional you are dealing with may ask you to do so in order to document that they have provided you with this form as required by the Rules. The real estate professional will provide a copy of this form (including any personal information you have provided such as your name or signature) to their brokerage. The Real Estate Council of BC, the provincial body responsible for regulating real estate professionals, may review this form for the purpose of monitoring compliance with the Rules.

If you have any questions regarding the Real Estate Council of BC's collection and use of your personal information, please contact:

Privacy Officer, Real Estate Council of BC, 900-750 West Pender Street, Vancouver, BC, V6C 2T8; telephone: 604.683.9664 or toll-free at 1.877.683.9664; email: privacy@recbc.ca

IMPORTANT:

THE BROKERAGE MUST PROVIDE A COPY OF THIS DISCLOSURE TO THE REAL ESTATE COUNCIL OF BC PROMPTLY AFTER ENTERING INTO A WRITTEN AGREEMENT OF DUAL AGENCY. SEND TO forms@recbc.ca