

Prudential Kahler REALTORS®

- putting your interests first -

“I’ve got to sign something before I look at a house? What’s up with that?”

What you need to know about Real Estate Disclosure Forms

- Real Estate Relationship Disclosure
- Buyer Broker Agreement
- Agency Agreement Addendum

So you are interested in purchasing a property. You’ve done your searching, got some listings from a real estate agent, and make an appointment to view the home of your dreams. Upon meeting the agent, or shortly thereafter, he/she explains that you need to sign a Real Estate Relationship Disclosure Form, a Buyer Broker Agreement, and an Agency Agreement Addendum.

In this litigious world we live in, agreements can no longer be made with the shake of a hand. Paperwork is necessary for proving relationships and agreements. Not only are these forms required by South Dakota law, they protect your interests in the home buying process. Following is a description of the forms that need to be signed prior to viewing homes with a real estate agent, and why you should not be afraid to sign them.

Real Estate Relationship Disclosure Form

South Dakota law requires this form.

- The purpose of the form is to disclose and explain the different types of real estate agreements (agency) that exist.
- Documents that you have been given a “Consumer Real Estate Information” booklet (also required by state law)

Signing this form indicates that you have had real estate relationships explained to you and that you have received the real estate information booklet. Signing this form does not constitute a contract or agreement with an agent or Prudential Kahler REALTORS®.

Buyer Broker Agreement

South Dakota law requires a written agreement which sets the duties and obligations of both parties entering into a real estate transaction. To further explain the benefits and necessity of this contract, it is important to first discuss being a client versus being a customer.

Understanding Client vs. Customer

Customer: Any person requesting information from a real estate agent is considered as a customer. REALTOR® ethics and service require agents to deal fairly and honestly with the customer, but there is no fiduciary or “special trust” agreement. Any information divulged to the agent during this time frame is not confidential, nor is the agent required to keep it so.

Client: Once the Buyer Broker Agreement has been signed, the customer becomes a client. The difference between the two is that a client is protected under the fiduciary relationship. The agent then works on behalf of the client and owes legal duties to the client. The agent will then

- Treat you with good faith, loyalty, and fidelity
- Negotiate in your behalf
- Act as your advocate
- Keep all confidential information private (even after the contract expires or terminates)

In essence, the Buyer Broker Agreement stipulates who is representing and protecting your best interests and who is not. The Buyer Broker Agreement also sets the parameters for other issues such as agent obligations, client obligations, fees, descriptions and time frames.

Signing a buyer broker agreement provides you with the best protection you can have with a real estate agent in your transaction. Time frames and properties can be written in so that you are comfortable with working with us.

And let's be honest...Signing a Buyer Broker Agreement protects my interests as well. Spending the time and energy to find listings on the multiple listing service and show them only to have you go to another agent to put in an offer is discouraging (not to mention unprofitable ☺) The Buyer Broker Agreement also gives me the go ahead to provide the **highest quality service** for you as a client. Although I may look for properties for you as a customer, I am much more motivated to get you as a client into a home since I know I will get compensated for my time. Real estate is all about building relationships, but we must also look at it as a business and make good business decisions.

Agency Agreement Addendum

This form is just that: an addendum to the Buyer Broker agreement. It is also required by state law. The purpose of this form is to explain the specific relationships and duties of owner-brokers and agents working in their office as they pertain to real estate transactions. Any agreement entered into with an agent is also entered into with the agent's broker (the firm's owner). The broker, in essence, "owns" all of the listings of the office. This form explains the relationship of the client with the broker and the agent and allows you to agree or disagree to the potential limited agency and appointed agency.

Limited agency: This is where an agent has a fiduciary responsibility to both sides of the transaction (buying and selling). He cannot disclose confidential information to either party that would give them an advantage in the transaction. For example: Your agent has a listing that you are interested in buying. He/she cannot tell you how low the seller is willing to go (since he/she must honor the confidentiality with the seller); neither can he tell the seller how high the buyer is willing to go (since he/she also represents you). Any other data that may give the other an advantage (motivations to sell, time frames, etc.) can not be fully disclosed to the other. If you choose not to be a part of limited agency, no homes that bring in this potential can be shown to you.

Appointed agency: Under this newer type of agency, 2 agents in the same firm can represent different sides of a transaction and still keep confidentiality and loyalty issues in place. In theory, what happens is the owner-broker of the firm "appoints" one agent to handle the buyer and another to handle the seller. Locked files and confidential folders help this type of agency work. If you decline appointed agency, no homes within the Prudential Kahler REALTORS® firm can be shown to you.

You are what is important

Other real estate agents at other offices may inform you that you do not need to sign any forms to see a property. This does have legal backing as state law says that an agent may show “one buyer, one property, one time”. However, as it has been explained before, it is in your best interest to sign the forms and become a client. Although this loop hole does exist, Prudential Kahler REALTORS® discourages using this because we fully believe in protecting your rights. Contracts and agreements are made of paper, and although they are required for legal reasons, they are not what is important. What is important is you. By becoming a client, you are giving yourself the best protection you can have in any real estate transaction.

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