



DUAL AGENCY AWARENESS CHECKLIST

Dual agency can be risky. If you want to be a dual agent, it is recommended that you consider the items listed below before forming a dual agency relationship.

I. Determine the Level of Risk

* If you are the seller or buyer (or landlord or tenant), or have an ownership interest in seller or buyer, do not be a dual agent.

* Consider the following factors that may increase risk:

	<u>Seller</u>	<u>Buyer</u>
You have a family relationship with	<input type="checkbox"/>	<input type="checkbox"/>
Friendship / social relationship with	<input type="checkbox"/>	<input type="checkbox"/>
Presently doing other business with	<input type="checkbox"/>	<input type="checkbox"/>
Previously done business with	<input type="checkbox"/>	<input type="checkbox"/>
You hope to do other business with	<input type="checkbox"/>	<input type="checkbox"/>
You hope to profit or gain from a party or the transaction, other than just earning a commission	<input type="checkbox"/>	<input type="checkbox"/>
You are aware of a party's confidential information concerning:		
Financial situation	<input type="checkbox"/>	<input type="checkbox"/>
Goals and objectives concerning real estate	<input type="checkbox"/>	<input type="checkbox"/>
Negotiating position on price and terms	<input type="checkbox"/>	<input type="checkbox"/>
Negotiating style	<input type="checkbox"/>	<input type="checkbox"/>
Other information that a party might want to be confidential	<input type="checkbox"/>	<input type="checkbox"/>
You speak a party's primary, non-English language	<input type="checkbox"/>	<input type="checkbox"/>
Party has less than average capacity in any respect: For example: not alert, easily confused, faulty memory, low literacy, vision or hearing impaired, low mental capacity, easily swayed, distracted by stress such as death in family	<input type="checkbox"/>	<input type="checkbox"/>
Party has lower than average sophistication in property / legal matters	<input type="checkbox"/>	<input type="checkbox"/>
Party tends to misunderstand or misinterpret what you say	<input type="checkbox"/>	<input type="checkbox"/>

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|---|--------------------------|--------------------------|
| Party has refused your urging to seek legal advice | <input type="checkbox"/> | <input type="checkbox"/> |
| Party is more likely than usual to file lawsuits | <input type="checkbox"/> | <input type="checkbox"/> |
| Situation or transaction is unusually complex or requires more than the usual broker guidance of either party | <input type="checkbox"/> | <input type="checkbox"/> |

II. Either Decline Dual Agency or take Steps up-front to Control Risk

* Always consult your manager or designated broker before undertaking a dual agency, describing fully any risk factors.

* If you are in a particularly close relationship with one party and not the other (for example, seller is a long-time, repeat client), dual agency can be very perilous and you should consider avoiding it.

* Consider alternatives:

* You can refer one or both parties to another broker and receive a referral fee that is normal and customary in amount.

* You can disclaim an agency relationship with one or both parties with the proper signed documentation.

* Explain the implications to all parties and make sure they understand and agree:

* You will have to treat all parties impartially.

* You cannot take any action that would be adverse or detrimental to either party.

* You will not be able to take sides in any later dispute.

* You will be limited in the ability to provide opinions on matters such as price and contract terms.

* There may be other consequences that no one can foresee.

* If you have a family, friendship, or business connection with either party, you must go further:

* Describe the connection fully, and in writing, to the parties.

* Get the informed, written consent of both parties.

* If a party has limited capacity or understanding, getting their "informed" consent may be impossible, in which case dual agency should be avoided.