

Simulation 1:

Explaining services to seller

- Provide clear explanations so they can make informed decisions and you can avoid unintended agency relationship
- Whether the seller wants to be a client or a customer ,
- What services to expect and obligations
- Address questions and concerns
- Make effort not to enter into unintended agency relationship
- Set proper expectations

Multiple representation and the purpose of the brokerage services form

- Seller is aware of how multiple representation would occur and how it differs from single
- Make the seller aware of how the services provided would be limited
- Use brokerage services form to obtain the seller's written acknowledgement they have received info as required

Seller representation agreement

- Explain the preprinted clauses completely and accurately
- Confirm the seller's understanding

Seller customer service agreement

- Explain the differences between client and customer
- Acknowledge their understanding and service choice using the brokerage services form
- Ensure understanding

Reviewing compliance with REBBA for advertisement

- REBBA requirements
- Follow RECO advertising Guidelines and or RECO social media guidelines
- Refer to your Broker of Record

Explaining the buyer representation Agreement

- Explain pre printed clauses completely and accurately
- Confirm buyer's understanding

Qualifying and selecting properties

- Financing, ask qualifying questions and deal breakers. What are material facts to them

Initial conversation, Working with the brokerage, document relationship

Disclosure document and offer

- Drafting offers correctly will result from continual practice
- No two offers are identical
- Ensure the disclosure document form has the appropriate disclosures and commissions

****Buyer cannot terminate the agreement for title search clause if they were aware there was an issue with title before requisition date*****

- Ensure the disclosure document form has been fully explained and you have confirmed the buyers understanding prior to the buyers signing the document
- Ensure all the details of the pre printed clauses have been fully explained to the buyers
- Confirm that the buyers have fully understood all explanations prior to the buyers signing the offer
- Ensure all the details have been fully explained and ensure understanding

Offer

- Ensure all the details of the pre-printed and selected clauses have been fully explained to the buyers
- Confirm that the buyers fully understand all explanations prior to the buyers signing the offer

Counter Offer

- Explain the counter offer and relevance of each change to the buyers
- Explain the options available to the buyers of accepting, countering and rejecting the counter offer
- Explain the possible outcomes and consequences to the seller or buyer of accepting countering or rejecting the counter offer

FINTRAC Requirements

- Verify the identity of the seller and the buyer
- Prepare a receipt of funds record for the deposit received
- At min identification must be made
 - o For the buyer → when offer is submitted and the deposit is taken
 - o For the seller → when the offer is accepted
- NOTE: identification can be made as early as documenting the relationship, if appropriate

Buyers offer is registered with the Listing Brokerage and Presented to the Seller

Offer Presentation

- At offer presentation, give copies of the offer and disclosure document to listing salesperson who presents the offer to the sellers
- Address any issues or concerns that the listing salesperson or seller may have regarding the offer

Explaining the factors and risks of competing offers when representing a buyer

- Increase the appeal for their offer
- Protect themselves from risk

Sellers perspective

1. Initial Conversation (client versus customer, duties and obligations of both brokerage and seller) Confirm understanding, document understanding, Acknowledge seller presentation agreement
2. Promote/advertise
3. Disclosure Agreement
4. Offer (look over clauses and protect the sellers interest)
 - a. Dates, incorrect working, costs, sections unfavourable to the sellers

Explaining the Offer to the Seller

- Analyze clauses and identify any wording that may not be in the seller's best interest or is incorrect
- Revise, add, or delete any wording in the clause to promote and protect the best interests of the seller

Remember Options

1. Accept 1 offer
2. Counter 1 offer
3. Reject all options

Explaining the factors and risks of presenting multiple offers

1. Aware of the details of all the offers submitted
2. The advantages and disadvantages of each

Explaining the Factors and Risks of Competing Offers When representing the Seller

- Understands the advantage and disadvantages of each offer
- Has been informed of all the options available to them for competing offers
- Understands the actions and consequences of each option

Multiple Representation in Offer (your clients are Buyer and Seller)

- Disclose to buyer, seller, and any buyer who submitted of written offer
- What the nature of the relationship is
- Do it in writing at earliest practical opportunity before offer is made (email)
- Tell buyer and seller of limitations of MR (multiple Representation)
- Buyer and Seller must give consent on disclosure document
- Before offer is MADE

Multiple Representation

- When the brokerage is representing two or more clients in the same transactions
 - o *Limitations*: cannot disclose clients motivation, personal info or negotiate the price
 - cannot receive notices

Commission reduction

- separate from seller representation agreement
- normally triggered when listing salesperson is double ending on an offer
- has to have terms and amount of reduction
- Have to disclose commission reduction you have to disclose the terms and details (amount) of commission in writing to all parties who have made an written offer
- At earliest practical opportunity before offer is ACCEPTED

Why is it important to understand commission reduction during multiple representation

- Fair and even playing field
- Comply with REBBA full disclosure

Disclosure Procedures During Competing Offers

- Remember during competing offers
 - o A salesperson must be aware of their disclosure obligations with commission reductions
 - o A salesperson must be aware of their disclosure obligations with multiple representations

Why is it important to explain multiple representation and an agreement to reduce commission

- Compliance with REBBA, protect our clients best interest, Understanding

Explain Multiple Representation and Agreement to Reduce Commission to the Seller During Competing Offers

- Disclosure must be made to
 - o Sellers, buyers, salesperson
- A salesperson must know when and how to disclosures are to be made

OFFER PHASE

Selecting clauses for the offer and writing a custom condition

- Clients buyers wants and needs
- Property details
- Protect and promote the best interest
- W's, Who is to do it, who is to pay for it, what is to be done, when it has to be done, what happens if it is not done, can it be waived

Preparing and explaining the disclosure document offer to the buyer

- Gather Information from our client
- Confirm information with GeoWarehouse
- Talk to listing salesperson (material facts, would they prefer a certain closing date etc)
- Disclosure document (we sign first), document the relationship, ensure understanding of expectations

Explaining the Counter offer and options to the buyer

- Disadvantages and advantages to allow for an informed decision
- Explain all the changes and how it would impact
- Options they have
- Risks/consequences of each action

Explaining factors and risks for competing offers when representing the buyer

- Risks for each of these topics they are involved in, but also bring in BEST OFFER
- Increase their appeal of their offer, DON'T increase things that are not feasible

Explain the offer to the seller

- Go over details of the offer, and advantages and disadvantages of what they have offered
 - o does it promote and protect the seller?
- Any mistakes?
- If the seller chooses to counter, have to help modify it

Explaining the factors and risks of competing offers to the seller

- the advantages + disadvantages of each offer
- Accept one, counter 1, reject (explain advantages and disadvantages)
- Understand consequences and actions of each option
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Explaining multiple representation and an agreement to reduce commission

- Need to know that you are in multiple representation, and what rules are
- DISCLOSURES
- Limitation of services
- Comply with REBBA requirements

Drafting and completing the counter offer for the seller

- Make changes, explain changes, Initial
- Initial Bottom of pages
- Sign on the signature page

Waiver - waive or remove a condition that is in an agreement

- Whether a condition was fulfilled or not

Notice of Fulfillment - Used to indicate a condition has been met (eliminates a condition in the APS)

- Remove/delete a condition
- Once signed the Deal is done, the other party just acknowledges receipt
- satisfied

Amendment - used to change something an accepted offer

- Have to be signed by all parties involved in the agreement
- If made and accepted offer is altered
- If not accepted, the original offer comes into play

Mutual release release parties from any claims or obligations from the transaction

- Identifies how the disbursements of deposit will occur
- Whenever deal isn't happening you need mutual release

Deposit Released - mutual release, Court order, Legal instruction when deal has completed

Termination - ONLY used in a condition subsequent that is not being fulfilled

- Need to use mutual release as well

True condition precedent - takes away choice from your buyer.

Selecting the Appropriate Sale Related Document (Waiver, notice of fulfilment + Amendment)

- If someone waives a condition - they are proceeding with the transaction even if the condition has not been satisfied
- A notice of fulfilment is used to advise the other party that the condition has been carried out and satisfied, they are proceeding with transaction
- An amendment is used to change terms in an agreement after it has been accepted

***In seller and Buyer representation Agreement it states that due to a breach of contract, deal doesn't close due to default or neglect of the Seller or buyer the brokerage is Entitled to get commission

****WHENEVER THE DEAL IS NOT HAPPENING YOU NEED A MUTUAL RELEASE UNLESS IT GOES TO COURT******

Mutual Release and/termination KEY POINTS FROM SLIDES

Mutual Release : used to disburse the deposit amount from brokerages trust account

- Used to release all parties from obligations and liabilities
- Must be signed by buyer and seller and the listing and co-operating brokerages broker of record/manager

Termination : used by a buyer or seller to terminate an agreement within the time period specified in a condition subsequent

Day 1:

Initial convo → foundation, sets out expectations, client vs customer, defines obligations, explains agency relationship, with brokerage, disclosures, multiple representation, avoid misunderstandings

Client: fiduciary duties, best interest, advice, obey lawful instruction, confidentiality, Secret profit, disclose, conflict of interests, negotiation, Material facts discover (REPRESENTATION MEANS CLIENT)

Customer: Honesty, Integrity, professionalism, known material facts

- Set expectations, comply with REBBA

Multiple Representation : Brokerage represents two or more clients in the same transaction

Documenting relationship with client

- Agency relationship, services obligations, multiple representation, brokerage services form, identify them, confirm understanding, sign brokerage services form (working with a realtor), documenting the relationship, explain representation agreement, confirm understanding, we sign first, then they sign
- Understand obligations to brokerage
 - o Can't provide advice to both parties, Cant receive notices, disclosures, personal information, can't explain CMA
 - o Need to obtain written consent
- Could be different locations, but the Name is exactly the same
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Clauses: appropriate for the property they are purchasing, they might not know they have certain requirements, doing our due diligence and give proper advice, buyers wants and needs

Buyer consider in competing offer: Disadvantages and advantages to allow for an informed decision

- Explain all the changes and how it would impact
- Options they have
- Risks/consequences of each action
- Increase appeal of their offer

Competing offer – know they have to bring best offer (increase appeal) but aware of risks for each of the categories (price deposit, chattels, fixtures, date of completion), balance of increase of appeal and risks and buer understands what the choices of the seller are

Criteria – Budget – pre approval?, Must haves must not haves and in between, ask a lot of questions

Multiple Representation Obligations: disclose to parties in multiple representation, limitations of services and obtain consent, Must disclose there are competing offers with EVERYONE who submitted an offer, in writing at earliest practical opportunity and explain relationship (buyer and buyer, or buyer and seller two different salesrepresentatives)

- If you have a customer in the deal you still have to let everyone know the nature of that relationship
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Disclosure Document – brokerages, who is working for whom, commissions, how much, written consent for multiple representation on behalf of buyer and seller

Reduce Commission: disclose that there is an agreement and amount of reduction, % or amount of reduction, or if flat amount disclose it. At the earliest in writing before an offer is accepted

Competing offer – advantages and disadvantages of each offer, tell them what choices they have, Accept one, counter one, reject one, need to explain consequences of each option. Advice but not personal opinion. How their choices could impact them

Prepare offer and disclosure document : obtain info, geowarehouse, check property description, easements, due diligence, talk to the listing salesperson explain, confirm unerstnading before registering and submitting

OFFER

1. Counter offer for a seller
 - a. How do you want to proceed, make changes (Favourable terms for the seller)
 - b. Accurate, make change, initial and sign signature section, and witness
 - c. All changes are done properly
2. Waiver or fulfilment of Conditions
 - a. Understand that the offer is firm and binding
 - b. Consequences and risks of waiving
 - c. Make sure you are using the correct form.
3. Amendment to an agreement (changes on an accepted offer)
 - a. Might not accept amendment and might go back to original offer
 - b. Signature of both parties
 - c. Clear Understanding
 - d. Still a binding APS
4. What is important when using a Notice of Fulfillment and Waiver
 - a. Appropriate Forms
 - b. Both eliminate the condition
 - c. Understand the offer is firm and binding
 - d. If satisfied = fulfillment
 - e. Waiver = did not get what they want, but still want to waiver
5. Mutual Release and Termination Documents
 - a. Termination can only be used in condition subsequent when you do not want the offer to go through
 - b. Mutual Release – Must be completed whenever a deal is not happening, unless Court is involved
 - c. Broker of record needs to sign both
 - d. To release them from the contract, and the deposit
6. Buyers salesperson after APS is binding
 - a. Help with dates and reminders
 - b. Ensure conditions if any are met
 - c. Help with Appts.
 - d. What are buyers obligations
 - e. Reminders, register with utilites company,