

Topic No. 6: Step 1 - Buyer Representation and Choosing an Exclusive Buyer Agent

Topic objective: To inform home buyers of the importance of buyer representation when building or buying a newly constructed home.

Step I: Hire an Exclusive Buyer Agent (An exclusive buyer agent works with a brokerage that does not list homes for sale)

The ideal exclusive buyer agent is an individual with a background in residential construction and/or architecture. If you cannot find an exclusive buyer agent with this background, look for an exclusive buyer agent who has closed several new home construction contracts. You will want an agent who has had experience working with reputable builders, as well as some of the unreputable builders. Agents gain a lot of experience fast when they have to work through a contract with an unreputable builder.

With the signing of an exclusive buyer agency agreement, the agent will have fiduciary duties to you the client. Following is an example of a job description illustrating the duties you should expect:

Employment Criteria: Agent must have a strong knowledge base in residential construction, new home contract negotiation, project management skills, and appropriate assertiveness to keep builders responsible.

Job Duties:

1. Lead buyer (client) through a pre-planning session
2. Assist buyer with identifying the basic and desired needs for the new home
3. Assist buyer with selecting the appropriate house plan
4. Assist buyer with lot selection
5. Lead the interviews for builder selection
6. Check references on builders
7. Educate buyer on loan options and assist with loan shopping
8. Negotiate contract
9. Join buyers and/or inspector to monitor construction
10. Coordinate all changes and disputes
11. Assist buyers with final walk-through
12. Review contract and all price changes
13. Attend closing
14. Be available to do follow-up on punch list items

Remember, your exclusive buyer agent is to be working for you as a consultant. A consultant's role is to lead, conduct research, and advise. Consultants should not tell you what to do. They should assist you with decision making.

Disadvantages of Hiring a Non-Exclusive Buyer Agent

First of all, don't be tricked into believing you have an exclusive buyer agent when it is possible you do not. Traditional brokerages that list homes for sale use exclusive buyer agency agreements. These exclusive agreements bind the buyers to using only the broker identified in the agreement to purchase the home. You have not hired an exclusive buyer agent if the brokerage lists homes for sale and/or markets new home developments. These buyer agency agreements also will include an option to change their status to that of a designated buyer agent, dual agent, facilitator, and/or a transaction broker. Do not accept any of these options. If you must use an agent from a traditional brokerage, have these options deleted from the agreement.

What you will normally find with non-exclusive buyer agents is that the agent will not be able to break from the habit of trying to sell you a home. That is not the desired behavior of an agent who should be representing you. In addition, most agents working for traditional brokers will not be able to perform all of the duties described in the above job description. Their brokers do not want to assume liability for responsibilities associated with some of these tasks. Conflict of interest is another concern. It is possible that the agent has developed a client relationship with the builder. In these situations, the loyalty is most likely going to go to the builder because the builder may be providing an ongoing stream of income for the agent. Remember, money talks.

BEWARE! Many buyers reveal that they never saw or heard from their non-exclusive buyer agent after the contract was signed.