

Surveying Agents on Dual Agency



My last article, “Dual Agency’s Demise”, spurred much controversy amongst real estate professionals throughout Long Island. To

remind our readership, “dual agency arises when a real estate broker or salesperson represents adverse parties (e.g., a buyer and seller) in the same transaction” as per the Department of State. This topic is currently at a head because new legislation, effective January 1, 2011, changes the disclosure requirements for dual agency. Some agents, who were outraged by my article and more specifically, its title, claimed that they can mitigate any adverse impact on clients that result from dual agency by way of their personal ethical standards. As more aptly stated by Laura Mastandrea, a Hamptons real estate broker, “I disagree with your written statement that “the broker’s fiduciary duty goes out the window” ... Like all other areas of life and business the integrity of the person is what determines the outcome”.

Being perplexed by these responses, I wanted to gain additional insights and obtain a deeper understanding of agents’ perspectives on dual agency on a larger level. At my next Continuing Education Class, I surveyed 50+ Real Estate Professionals to objectively realize their perspectives.

51 real estate agents answered the survey. The first quantitative inquiry stated, “During the past 6 months have you represented clients in a dual agency scenario?” Surprisingly, only 29% of agents had engaged in dual agency. The second quantitative inquiry stated, “I believe that dual agency is beneficial / detrimental to clients”. In response, 49% of agents believed that dual agency was beneficial, while 37% found the practice detrimental and 14% were indifferent. The third quantitative inquiry stated, “I believe that dual agency results in buyers paying less / more for the same purchase”. In response, 22% of agents believed that dual agency results in buyers paying less, while 39% believed buyers pay more and 39% did not find that dual agency affected the purchase price. The last quantitative inquiry stated, “I believe that clients understand / misunderstand the concept of dual agency”. In response, only 18% of agents believed that dual agency was understood by clients, while a whopping 78% believed that clients misunderstand the concept and 4% had no response.

?To recap, 71% of real estate agents do not engage in dual agency, but the majority of agents nonetheless find dual agency beneficial to clients. 17% more agents believe that purchase prices are higher in a dual agency situation as opposed to an independent agency situation. So, which client does dual agency really benefit? It would seem only the seller, or maybe, just the agent. Lastly, a profound majority of agents agreed that clients do not understand dual agency. The legislature in New York agrees with this statistic as the stated justification for the new amendment is “to provide consumers with information regarding their representation in a real estate transaction”. Now the question is if the amendment will have the intended result or if dual agency is too dangerous to be saved?

After all, some of our qualitative survey results are as follows:

Support dual agency: “less people in the grapevine, information, feedback, results action are executed quicker”; “better control over the whole transaction”; “better negotiations”; “buyers pay less because both parties cooperate”; “buyers pay more because there is more of a chance for a bidding war”; “make double money, always good”; “it’s easier to sell the listing”; and “realtor who is not serving only one side is in the unique position to bring the two sides together favorably”.

Against dual agency: “It’s difficult to look out for the client’s best interest”; “they don’t get it clarified by the broker of what’s really happening behind the scenes”; “agent is working for seller”; “after you disclose to the clients who you represent I don’t believe they understand fully”; “listing agent still feels that they are obligated to the seller”; “we work for the deal not the buyer or the seller”; “real estate agents are transaction agents”; “it’s really hard to wear 2 hats”; “client level service is more honest”; and “most agents don’t understand the concept themselves”.

The scariest answer of all that we received was that dual agency is beneficial to clients “because it’s legal”. Visit my blog and post your thoughts if dual agency should be legal <http://lirealty.blogspot.com>.



Andrew M. Lieb is the Managing Attorney of Lieb at Law, P.C. and of the firm’s NYS Licensed Real Estate School. You can reach Mr. Lieb with questions or comments at Andrew@liebatlaw.com or 631.878.4455. Please see our website at liebatlaw.com to register for FREE real estate continuing education classes.

