

# How to Determine if Dual Agency is a Good Fit for Your Transaction

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*“Can you represent me in buying the farm if you are the listing agent?”*

That is a question that a lot of buyers ask when they have worked with a certain agent on previous deals. The short answer is, yes, but it carries with it confidentiality, trust, and the ability for the agent to stay unbiased during negotiations. The practice is known as *dual agency* and can be very sensitive if it is not handled correctly and honestly. Before a buyer takes this leap of faith be sure and learn more about the positive and negatives points, some of which we will discuss below.

In the land brokerage business, there are a lot of crossovers on representation, especially in rural areas. The lack of inventory and history with sellers and buyers make it difficult to not “know everyone’s business” as they say in a small town. Still, that doesn’t relieve an agent of their loyalty to their clients, and even more so, if they have entered into a dual agency agreement with the buyer and seller. It becomes a balancing act by the agent. The main responsibility of the agent is to make sure both arrive under the same terms and conditions.

With dual agency, both the seller and buyer are clients of the agent. During a transaction where a single agency is being practiced the person who is represented by an agent is the “client” to that agent and the other party that is not being represented by the agent is the “customer.” The main difference is that if the client tells the agent something in confidence they can’t share it with anyone. If the customer says something to the agent, they are able to share it with their client.

Typically, the commission and the manner it is going to be paid is dictated by the listing agreement. So, first I would be asking that question if it is not conveyed to you when first engaging an agent. Naturally, it can be negotiated but make sure you are clear prior to making any offers and any other responsibilities you have in the transaction. The other thing to consider is that dual agency is not legal in all states. There are a few states that have made it illegal to represent more than one party in a transaction. So, make sure you check the laws in the state you plan on purchasing property in.

There is an alternative to dual agency, but it is not practiced a lot in today's real estate environment and that is a transaction broker. This arrangement is where a transaction broker is a neutral third party in a transaction. They don't represent either party so unlike dual agency they will not offer any advice to either party and are not prohibited from divulging information to either party. This works well for a division of partnership or when friends and/or family have already determined price and terms and conditions, and they only need someone to facilitate the transaction. The fees involved are usually a flat fee and shared equally by the parties involved.

In deciding whether to participate in dual agency make sure you trust the agent you're dealing with, that it is legal in your state, and that it is the right fit for your transaction!