

## Buyer Representation: How it Benefits You

By

Joel Ward

In order to understand buyer representation, we need to briefly discuss the law of agency. “Agency” is a legal relationship between two parties, the principal and the agent, and has its roots in English Common Law. Typically an agency relationship is created by an agreement, or contract. In this relationship, the agent has several clearly defined duties relative to the principal. They are these:

- The duty of obedience: The agent must follow any legal directive of the principal.
- The duty of reasonable skill and care: The agent must exercise reasonable care and possess competence while transacting the business entrusted to him or her by the principal.
- The duty of accounting: The agent must account for any funds received from or on behalf of the principal, and maintain copies of all documents relevant to the business being transacted.
- The duty of loyalty: The agent must place the principal’s interest above all others, including the agent’s own interest.
- The duty of disclosure: The agent must disclose to the principal all known facts or information which could affect the transaction.

Article 15 of the Real Estate License Act of 2000 discusses agency as it relates to real estate transactions, and provides that buyers as well as sellers can enter into agency relationships with their real estate brokers. This represents a change from earlier times in Illinois, when real estate licensees were all agents of the sellers, and buyers were only considered to be customers. In those days, real estate licensees owed all of these duties to the seller, but not to the buyer.

At Joel Ward Homes, we use the Exclusive Buyer Representation agreement developed by the Illinois Association of REALTORS. This agreement makes your Joel Ward Homes REALTOR your *designated agent* and make you his or her *client*. The main points of this agreement are these:

- Your designated agent promises to diligently search for available homes which meet your selection criteria.
- Your designated agent promises to protect your confidential information.
- Your designated agent promises to protect and promote your interests at every step of the transaction, including during negotiations with the seller.

- Your designated agent's managing broker promises to provide any assistance needed by you or your agent in helping you find and acquire the home of your choice.
- Understanding that the compensation to Joel Ward Homes is typically paid by the seller, you agree to ensure that Joel Ward Homes is compensated at the rate specified in the contract should you choose to acquire any parcel of real estate during the term of the agreement.

It is this buyer representation agreement that formally establishes the agency relationship. This means that it is our duty, both ethically and legally, to represent your best interests in any real estate transaction. We take this responsibility very seriously, and pledge to promote and protect your interests at each step in the process.

Here is a summary of the ways in which you benefit from the buyer representation agreement:

- Your interests are protected and promoted by the agency relationship, both legally and ethically
- Your designated agent will employ their knowledge and experience to help you negotiate a sales contract most beneficial to you in the purchase of your new home
- Your confidential information is protected by your REALTOR
- Because of your agreement to make sure that your REALTOR is compensated when you purchase your home (understanding that the compensation is typically paid by the seller) your REALTOR is able to commit significant amounts of time and effort in helping you find the perfect house and negotiate the best possible price.
- And, even though you are our client, our fee is typically paid by the seller and is "built into" the price of the home along with the fee due the seller's real estate broker.