



LEGAL HOTLINE Q&A

FROM GET THE FACTS, April 16, 2024

Question:

Our local Association and MLS received questions about Form 41 and open houses. Recently, we had a Designated Broker contact us about other members who are having prospective home buyers sign Buyer Brokerage Agreements at open houses. Multiple agents have reported offices holding open houses that include a stack of blank Buyer Brokerage Service agreements on the table and also working with buyers who said they signed something at an open house but weren't really sure what the terms were. There have also been instances of brokers spending time offering real estate services, like advice on specific real estate questions beyond the house, at open houses. Please address the appropriate way for agents to interact with potential buyers at open houses. Are there rules against agents bringing copies of Form 41 with them to their own open houses, and is it considered unethical to have certain types of conversations with potential buyers before a statewide form 41 is signed?

Answer:

There is nothing wrong with a listing broker or a buyer broker taking blank Forms 41 to an open house. Any broker who is going to enter a BBSA with a buyer must first provide the buyer a "Law of Agency" pamphlet and should adequately explain the nature of the contract that buyer is entering with broker and broker's firm. If all of that can happen at an open house, then there is no reason a Form 41 cannot be signed between a buyer and a broker at an open house. It is not necessary for a broker to enter a BBSA with a buyer prior to showing the buyer the open house. However, if the buyer wants to write an offer, with the hosting broker, to purchase the open house, then broker must enter a BBSA with buyer before writing the offer unless broker is the listing broker. If broker is the listing broker, then listing broker must provide the unrepresented buyer with the Law of Agency pamphlet. If listing broker desires and has the consent of both parties, listing broker can become a limited dual agent by entering a buyer agency agreement with the buyer. If buyer wants broker to show buyer other homes, then broker should enter a BBSA with buyer before showing other homes.

The Legal Hotline Lawyer does not represent Washington REALTORS® or its members. The advice contained herein does not constitute legal counsel. To browse through our database of past Q & A's, visit warealtor.org/legal-hotline. Attorney Annie Fitzsimmons writes the Legal Hotline Question and Answer of the Week. This is a WR members-only benefit so you will be prompted to log in with your MI number and password. Your Designated Broker is cc'd on Legal Hotline inquiries.



facebook.com/warealtors
twitter.com/washrealtors
instagram.com/washrealtors
youtube.com/washrealtors



warealtor.org • 1-800-562-6024 • 360-357-6627 Fax • 504 14th Ave SE, Olympia, WA 98501 • P.O. Box 719 Olympia, WA 98507 (Mailing)