



# LEGAL HOTLINE Q&A

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## Question:

When does agency start? For example, is it when you meet someone at an open house, at a listing appointment, or when you sign an agency agreement via a buyer broker agreement or listing contract?

## Answer:

A broker becomes the agent of a seller only when the broker's firm enters a listing agreement with the seller, appointing broker as the seller's agent.

However, a broker becomes the agent of a buyer as soon as the broker provides RE Brokerage Services to the buyer, unless the broker is already seller's agent. If the broker is already seller's agent, then the broker will not become the buyer's agent unless and until broker's firm enters an agency agreement with buyer, appointing the broker as the buyer's agent, which would make broker a dual agent.

A broker who is holding an open house, who greets a prospective buyer and displays the home to the buyer, who discusses seller's offer terms, market value, competing properties, terms and processes of sale, etc will be a buyer's agent as soon as broker begins providing those RE Brokerage Services unless the broker is the listing agent. If the broker is the listing agent, then broker is providing those services as the seller's agent. However, if broker is not the seller's agent, then broker becomes buyer's agent as soon as broker begins providing those services. The Agency Law, effective January 1, 2024, requires that buyer broker to then enter an agency agreement with that buyer before providing additional brokerage services to the buyer.

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