

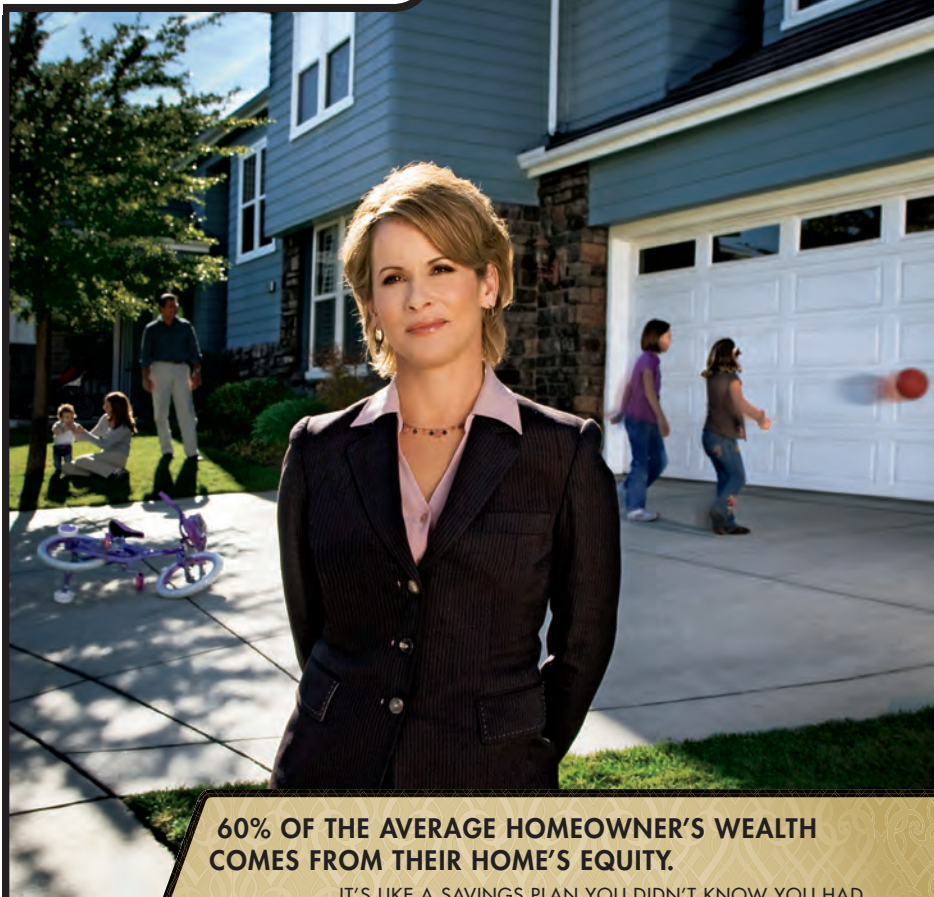


# A REALTOR<sup>®</sup>'s Role

## Understanding Your Options

Provided as a public service by the Virginia Real Estate Educational Foundation and the Virginia Association of REALTORS<sup>®</sup>

# Remember...



## **60% OF THE AVERAGE HOMEOWNER'S WEALTH COMES FROM THEIR HOME'S EQUITY.**

IT'S LIKE A SAVINGS PLAN YOU DIDN'T KNOW YOU HAD.

You might be wondering if buying a home right now is a smart financial decision. The fact is, homeownership is key to building long-term wealth, no matter when someone buys. Studies show that, over time, most homeowners will steadily build equity. For example, during the past three decades, home values have increased an average of more than 6.0% every year\*.

Of course, owning a home is much more than a way to gain a financial edge, it's also where you raise a family and create life-long memories. Work with a REALTOR®, a member of the National Association of REALTORS®, they can show you options in your area that best fit your situation. To learn more, visit [HousingMarketFacts.com](http://HousingMarketFacts.com).



EVERY MARKET'S DIFFERENT, CALL A REALTOR® TODAY.

**Virginia Association of REALTORS®**  
Glen Allen, VA  
(804) 264-5033  
[www.VARealtor.com/Consumer](http://www.VARealtor.com/Consumer)



©2008 National Association of REALTORS®.

# Why use a REALTOR®?

All real estate agents are not the same. Only real estate agents who are members of the National Association of REALTORS® are properly called REALTORS®. They display the REALTOR® logo on their business card and marketing materials and are committed to treating all parties involved in a transaction according to the strict REALTOR® Code of Ethics. Using a REALTOR® offers a variety of benefits:

## Buyers, your REALTOR® can:

- Help you determine your buying power. If you give a REALTOR® some basic information about your available savings, income and current debt, he or she can refer you to lenders best qualified to help you.
- Assist in your home search. Sometimes the property you're seeking is available but not actively advertised in the market. Your REALTOR® is an expert at finding all available properties.
- Provide objective information about each property. REALTORS® have access to a variety of informational resources. REALTORS® can provide local community information on utilities, zoning, schools, etc.
- Help you negotiate. There are myriad negotiating factors, including but not limited to price, financing, terms, date of possession and often the inclusion or exclusion of repairs and furnishings or equipment. Your REALTOR® can advise you as to which investigations and inspections are recommended or required.



## Sellers, your REALTOR® can:

Help close the sale of your home. Between the initial sales agreement and closing (or settlement), questions may arise. Your REALTOR® is the best person to help you find the answers and move the transaction to closing (or settlement).

Give you up-to-date information on what is happening in the marketplace and the price, financing, terms and condition of competing properties. The housing market is constantly changing; a REALTOR® is your key to understanding these changes and making good decisions.

Market your property to other real estate agents and the public. In many markets across the country, over 50 percent of real estate sales are cooperative sales; that is, a real estate agent other than yours brings in the buyer.

Help you objectively evaluate every buyer's offer without compromising your marketing position. This initial agreement is only the beginning of a process of appraisals, inspections and financing—a lot of possible pitfalls. Your REALTOR® can help you write a legally binding, win-win agreement that will be more likely to make it through the process.

## Client or Customer?

When dealing with a REALTOR® in a real estate transaction, you are usually either a client or a customer of that REALTOR®. A client is someone who has formed a brokerage relationship with a REALTOR®, usually by signing a contract designating the REALTOR® as his or her agent. A customer typically works with a REALTOR® but does not have a brokerage relationship with the REALTOR®.

A REALTOR®, when acting as an exclusive agent, has certain duties and obligations. The basic duties are defined in Virginia law (see the Code of Virginia Title 54.1, Chapter 21, Article 3). Additional duties can be created by a written brokerage agreement with a client. REALTORS® are also governed by a strict Code of Ethics, which applies only to them.

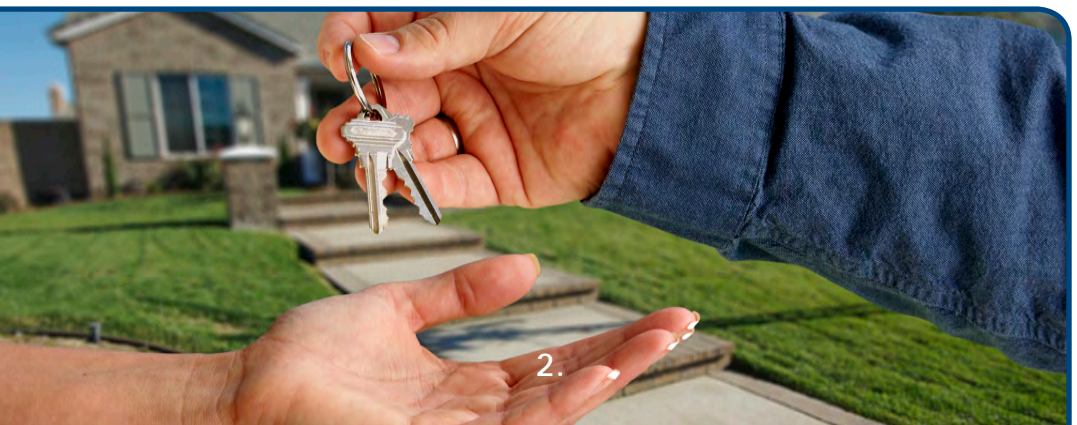
The REALTOR® you choose as your exclusive agent should fully represent your best interests. An agent owes first allegiance to his or her client. There are some limits when an agent has two clients in the same transaction (see “Overlapping brokerage relationships”). Brokerage relationships with an individual REALTOR® generally bind all employees of the same real estate company.

## Exclusive seller representation

If you are selling property or offering it for lease and sign an exclusive listing agreement with a REALTOR®, then the REALTOR® and his or her brokerage firm typically becomes your agent, and you are their client.

If you are a prospective buyer or tenant who is dealing with a REALTOR® who represents the seller or landlord, remember that you will usually be the REALTOR®’s customer unless you have hired a REALTOR® to represent you (see “Client or Customer?”).

A seller’s representative can still provide valuable services to customers—showing the property, preparing and presenting any offers and counteroffers, comparing financing alternatives, and disclosing known deficiencies about the condition of the property. All real estate professionals in a transaction must be truthful with all parties, but the seller representative’s highest duty is to the seller.





### A REALTOR®'s duties to a client include:

- Fulfilling the terms of the brokerage agreement.
- Promoting the client's interest by seeking a transaction acceptable to the client.
- Providing an accounting of any property of the client held by the REALTOR®.
- Disclosing known facts about the property or the transaction.
- Exercising ordinary care.
- Maintaining client confidentiality, unless the information is required by law to be disclosed or the client consents to the disclosure.

### A real estate agent's duties to a customer include:

- Treat all parties honestly and not knowingly give false information.
- Inform all unrepresented and potential customers of the nature of their brokerage relationships, if any.
- Disclose deficiencies pertaining to the physical condition of the property of which the agent is aware.
- Comply with the law, including the Fair Housing Act.
- There are limits to what a real estate agent is required to tell a customer. Customers may wish to look to other sources for information important to their decisions.

A seller's representative can still provide valuable services to customers...



## Standard buyer representation

Prospective buyers and tenants can benefit from having a REALTOR® of their own representing them in a transaction. This REALTOR® brokerage relationship is formed through a written brokerage agreement which states the duties an agent owes to his or her client. A representative for the prospective buyer or tenant can freely advise the client about all aspects of the property and transaction.

A seller dealing with a buyer's agent should remember that in this relationship, the REALTOR® is working for the buyer. In many cases, the listing agent will share the commission with the buyer's REALTOR®, but that doesn't diminish the obligations of the buyer's REALTOR® to the buyer.

## Overlapping brokerage relationships

The advantages of buyer representation have increased the number of transactions in which REALTORS® might have overlapping brokerage relationships.

This happens when a buyer or tenant client of a real estate company wants to buy or rent one of that company's listings. Even if different REALTORS® are working with the different clients involved in a transaction, their dual loyalties are created through their company, which has legal and contractual obligations to both clients.

The advantages of buyer representation have increased the number of transactions in which REALTORS® might have overlapping brokerage relationships.

**In dealing with these situations there are typically three ways for the transaction to proceed:**

### **Option 1: Standard dual representation**

Virginia law allows a real estate firm or salesperson to represent both sides of a real estate transaction, as long as all the parties give written consent. Because the company has a legal obligation to represent both parties and may know confidential information about one party of value to the other party, there are limits to what the company or salesperson may do in dual representation cases.

The company or salesperson must not disclose information that is confidential or would create a negotiating advantage for either client, such as whether the seller will take a lower price, or the buyer will pay a higher price. Generally, information about the motivations of the parties must also be kept confidential. In effect, dual representation limits the REALTOR® to a neutral role.

### **Option 2: Designated representation**

If all the parties agree, a real estate company can designate one of its REALTORS® to represent the seller or landlord and a second REALTOR® to represent the buyer or tenant in the same transaction. A supervising broker in the company will oversee the transaction. However, each of the designated REALTOR® representatives will be able to offer full service to the assigned client.

The supervising broker is required to maintain the confidentiality of any client information, which could be of value in the negotiations. The two designated representatives must not share confidential information with each other. But when working with their individual clients, they are free to gather important information from outside sources, free to advise their clients and help with negotiations, and will be thinking first of their clients' needs and wishes.

You are not required to agree to either of these dual representation situations. If you refuse the dual agency relationship or designated representative relationship, the real estate professional or company must choose which party to represent, and the other party is free to arrange other representation for that transaction.

### **Option 3: Limited Service Representation**

Buyers and sellers might want fewer services than are typically provided by a full-service broker. In these cases, the specific services to be provided, as well as the services that would be provided by a standard agent but that will not be provided by the limited service brokers, must be set forth in the brokerage agreements. Fees for such services are fully negotiable, as are the fees offered by full-service brokers.

One of these exclusive brokerage relationships—seller representation, buyer representation or some form of dual representation—should be right for you. No matter which you choose, working with a REALTOR® is always the right decision.

For more helpful information, check out: *How to Best Buy or Sell a Home* or visit [www.VARealtor.com/Consumer](http://www.VARealtor.com/Consumer)



10231 Telegraph Rd.  
Glen Allen, VA 23059  
(800) 755-8271  
[www.VARealtor.com](http://www.VARealtor.com)