



IDAHO DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES - REAL ESTATE COMMISSION -

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July 13, 2021

Designated Broker
Address
City, State, Zip

Dear Designated Broker,

The Commission is sending this letter to all Designated Brokers to share some important information.

It may come as a surprise to many of you that increasingly, during a licensee's interactions with Commission staff, many of them cannot correctly name their Designated Broker. While this represents a true minority of licensees, this trend does merit discussion. Most of these licensees mistakenly think their team leader is their Designated Broker. This has caused some interesting interactions and misunderstandings as to the important role designated brokers have in our industry.

Idaho real estate license law requires all active licensees affiliate under a Designated Broker. License law further defines the duties of both the Designated Broker and the licensees affiliated with that brokerage. Let's review these duties.

Designated Broker

Here is a list of your primary functions as Designated Broker:

- supervise and control the real estate activities of all licensees and unlicensed persons associated with the brokerage
- review and approve all real estate agreements
- be reasonably available to manage and supervise the brokerage during regular business hours
- maintain adequate, reasonable, and regular contact with sales associates engaged in real estate transactions
- be reasonably available to the public during business hours in order to discuss or resolve complaints and disputes
- review advertisements of the firm and associates
- ensure your associates know your office policy on agency
- notify the Commission if you terminate a licensee 'for cause', meaning you know or suspect they have violated license law

Sales Associates

As to the associates affiliated with your office, they are required to perform certain duties as well. Any licensee associated with a Designated Broker shall:

- Upon obtaining any document signed by a buyer or seller, a sales associate shall provide a true and legible copy of such document to the Designated Broker or broker's office prior to the end of the next business day
- provide a true and legible copy of signed documents to both the buyer and the seller
- abide by agency law in all interactions with consumers

- timely seek your assistance when needed
- timely disclose any adverse material facts they know, or should know
- if they leave your firm, return all items belonging to the brokerage
- Not engage in any practice or conduct, directly or indirectly, which encourages, entices or induces clients of the broker to terminate any legal business relationship with the broker, without the broker's permission

We encourage you to review these statutory requirements with your associates and encourage them to contact you when they need assistance in their brokerage activities before they do something that may become problematic.

Interference with Brokerage Agreements

Even though real estate agents and brokers vigorously compete with each other for business, no one may steal a client from another brokerage firm. The Commission has received calls from licensees complaining that another agent or broker 'stole' their client. This can happen in various ways. Licensees are to ask any potential consumer if they are currently under contract for the same services with another brokerage firm. When they discover the party is under such an agreement, the licensee needs to respect that agreement. The licensee is to never encourage, suggest, coach or entice the consumer to cancel or ignore the representation contract that party has with another firm.

But the law goes further. I.C. 54-2054(4) states "It shall be unlawful for any person, licensed or unlicensed, to interfere with the contractual relationship between a broker and a client." Most licensees know this, but unlicensed persons may not. The Commission is now receiving complaints that unlicensed persons are enticing and advising buyer and seller clients of brokerage firms to cancel or ignore these agreements. Builders, developers, or unlicensed employees of the same, are under the same strict prohibition to not interfere with the agreements your firm has with buyers and sellers. Enticing a buyer with statements such as "We can make a better deal for you if you don't have an agent," or "If you didn't have an agent, we could show you other offerings we have for sale," fall under this category and apply to anyone, licensed or not.

In a competitive real estate market like Idaho, it would serve us all well to place our potential buyers and sellers under a well drafted agreement for agency representation. We should also review strategies with our buyers when looking for properties with us. As well as give instruction on how they should interact with others if they are looking without their agent.

Feel free to contact the Commission staff if you have any questions.

Sincerely,



Mike Gamblin, Chair