



# Key to Buyers

by

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A 7.5 hour course that covers the essentials of working with prospective residential real estate purchasers.

PROFESSIONAL *Direction* INC

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*A Washington State Approved Real Estate School for Clock Hour Education under R.C.W. 18.85.*



*Please Read this First! Thanks!*

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Thanks!

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# The Key to Buyers

## Curriculum

Session Hours	Major Topics	Type of Instruction	Assignment
1 1/2 hour	Introduction Analyzing your past sources of buyers. Turning a potential prospect into a client. Writing advertisements.	Lecture Discussion	Read booklet Take Notes
2 1 hour	Evaluating the motivation of the buyers and their fears. Learning to identify the types of buyers and their needs and problems.	Lecture Discussion	Read booklet Take Notes
3 1 hour	Agency Law	Lecture Discussion	Read booklet Take Notes
4 1 hour	Qualifying buyers for a mortgage loan.	Lecture Discussion	Read booklet Take Notes
5 1 hour	Showing properties. Determining Value. Personal vs. Real Property.	Lecture Discussion	Read booklet Take Notes
6 1 hour	Contract considerations. Preparing and presenting purchase and sale agreements. Buyer agency contracts and commission compensation	Lecture Discussion	Read booklet Take Notes
7 1 hour	Misrepresentation and disclosure. Understanding that buyers expect service. Understanding fair housing laws.	Lecture Discussion	Read booklet Take Notes
8 1 hour	Moving towards the closing.	Lecture Discussion	Read booklet Take Notes

# The Key to Buyers

## Introduction

With a real estate license you can become a free taxi driver and an interior decorating consultant or you can effectively work to create transactions with buyers. The challenges that we face working with buyers begin right from the start turning prospect into a client. Then, we need to work to earn and retain their loyalty. There are responsibilities and legal guidelines to follow as the transaction moves from contracts to closing.

### LEARNING OBJECTIVES

Upon completion of this course, the student will be able to:

- Learn to identify and understand the different needs of buyers.
- Learn to evaluate the motivation of Buyers.
- Recognize the presumption of agency and the duties of an agent.
- Learn the questions to ask to qualify buyers
- Identify the contract considerations
- Consider the buyer contract clauses
- Identify disclaimer clauses.
- Recognize Fair Housing issues.
- List the needs of Buyers as the transaction proceeds towards closing.

# Where Do Buyers Come From?

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Where to find a buyer.
- Writing effective advertising
- Types of home buyers
- Asking questions of buyers

Oh, if we only had a qualified buyer who wanted to buy real estate today? It is the dream of most real estate brokers to get the call that a buyer is ready, willing and able to buy and is quick to make a choice. Oh... and the contracts and escrow will go smoothly. Less than a month from the first call, the sale is complete! Oh... we can all dream!

It is so difficult to find buyers in the market today! Everyone wants to sell brokers lead generation. They promise qualified buyer leads. Oh, if it was only THAT easy?!

The goal is to be present and accessible so that prospective buyers find you! You need to market yourself and network with previous clients and contacts so that they will refer you. Most buyers (and sellers) find an agent through some kind of personal referral or from a direct contact with a broker.

This is an older chart that has been used by years.. But, it is still rather accurate.

<b>Firm Name Recognition or Salesperson Contact</b> <b>The buyer decided WHO to call before looking at homes</b>	40%
<b>The "For Sale" Sign</b> <b>The buyers found a home, often in their own neighborhood, that they liked</b>	20%
<b>Responded to an Advertisement</b> <b>They called about an ad but they purchased another property!</b>	18%
<b>Came to an Open House</b> <b>They came to see a house but they purchased another property!</b> <b>Many of these buyers went to new construction homes where an Open house is an example of one of the homes in inventory</b>	8%
<b>Referral or Relocation</b> <b>They were referred to a company or an agent by another party!</b>	7%
<b>Bought an Advertised Property</b>	3%
<b>Bought an Open House They Saw</b>	1%
<b>Bought for a Combination of Other Reasons</b>	3%

The National Association of REALTORS did a study updated in 2015 showing that the information sources used in a buyers home search. You can see that this study was conducted differently but paints a similar picture.

- Real estate agent: 87%
- Yard sign: 51%
- Mobile or tablet website or application: 57%
- Open house: 48%
- Mobile or tablet search engine: 54%
- Print newspaper advertisement: 20%

In this study, which is not the same type of information, it shows that the buyers are using a mobile or tablet search quite often. The yard sign and open house statistics are probably quite high because the buyer can see the information prior to going to the property. It shows how mobile searches have had such a drastic affect on the buyers search for a property.

Buyers compare an average of 15 to 25 homes and often less before making a decision to buy according to some statistics. This statistic is probably much lower today with the use of mobile applications. The prospective buyers know where the house is located, what the asking price is, and the size and amenities before going to preview the property.

Real estate firms spend large sums on advertising to make the phone ring. The goal is to bring the buyers to the company. Agents have followed suit and created personal marketing campaigns to make their individual phone ring. Research has shown that the majority of the buyers "found" their agent because of company recognition or personal referral. Do you think buyers are "caught" by agents that use lead generation?

Most people will work with your because they Know you, Like you, and Trust you. How can you create that energy with more buyers. Your sphere is where most of your business will almost always come from as a real estate agent.

*(Discussion and thought provoking questions in italics through the booklet)*

***Where have your buyers come from?***

***Where did the buyers come from on your listings? Did they come from your marketing efforts?***

***How many of your buyers bought one of the first several homes they previewed?***

# From Prospect to Client

It's a rare day when a prospective buyer calls you on the phone and says, "I want to purchase a home this month. Will you represent me?" Often prospective buyers will test the water by asking you questions. Watch for the test from the people around you.

## **Handling direct calls and emails from prospective buyers.**

The primary purpose a prospective purchaser is calling is to **eliminate** the property that tickled their interest enough to call. They want to make sure that the property is not one that they might be missing. There are prospective purchasers that call to find out about possible properties that may fit their needs and wants. They may need a place to start.

*What is your objective when taking these types of calls?*

## **Internet Inquiries**

The role that the internet will play in the real estate world is only in the beginning stages. In 1996 only approx 3% of the real estate consumers were using the internet but that figure is up to over 96% as we head into the next century. Consumers are searching for listings and real estate related web sites. A percentage of those consumers will reach the internet savvy agents by email.

*Do you check your email? I used to say that only 10 years ago.*

*Do you have an active website or blog? Do you have a home page? So how can people find you and your listings on the internet. Find yourself online! Google yourself. Google your listings!!!! Key the address of the listing in the search box!*

## **Open Houses**

Seldom do prospective purchasers walk into properties that they turn around and purchase. Their purpose is usually to look at the inventory. Often, prospective buyers look at homes that are far above their price range. Expensive home tours capitalize on this fact. There may be some feature of the home, or just the location, that brings the prospective buyer through the front door. Sometimes prospective purchasers read that the best way to choose an agent is to meet the agents at open houses. Here, a first impression is most important.

*What is the most effective way to turn lookers into prospective purchasers?*

## **Networking and Referrals**

When the phone rings from a prospective buyer that was referred to you from friends or clients, or that you met through networking or farming, you need to find out not only if they have purchased before, but also what their concerns are. People choose to work with you because they know you, like you and trust you. A referral speeds up that process!

*How do you create a safe way for a referral to turn into a client?*

## **Past Clients**

The buyers or sellers that you have represented in the past are often your best source of business. They are choosing you prior to the property. Often, they will call you with questions to check out whether you can help them in their new venture.

*What are ways to effectively answer their questions to turn them back into clients?*

## How to Write a Successful Advertisement

### Buyers look for when reading ads.... Any ads.. even online!

Location	70%
Size and Number of Rooms	45%
Price and Terms	40%
Type of construction	33%
Condition or Appearance	20%
Age	17%
Type of Heating	17%
Basement	8%
Size of Lot	6%
Details about features	4%

When a buyer calls about an house on an ad they call because they typically want to “eliminate” the house as a potential. “Phew, you can hear them saying... we didn’t miss one!”

Buyers search for properties most often based on location. Then they look to see if they will fit.... And THEN they look to see if they can afford the house! There are millions of good buys in real estate on wetlands, in the desert or out of town. Location is what buyers want first. Sometimes that location is a small range near a school, for example. Sometimes it depends on commuting to work. Sometimes it is just the general city. When there is a post on Facebook, for example, the reader wants the location and price.

*A broker will post a listing on Facebook without the location or the price. The goal is to get the buyer to call. But, it could be backfiring.... that the buyer just clicks right on by.*

*Try looking for listings in your city. See how difficult it can be. Pretend you are an out of state buyer. Isn't it confusing?*

## Write Ads that Sell

Use the AIDA method from all your old marketing texts!

**ATTENTION** Use the headline to attract the attention of the reader.

**INTEREST** Arouse interest in your opening sentence. Use emotional, economical or investment appeal.

**DESIRE** Create desire in the body of the ad by describing all the features of your home.

**ACTION** Impel action in your closing lines. Mention price and phone number. Create a sense of urgency.

*No more boring ads.. say that to yourself as a mantra! Make sure you don't violate fair housing... but do make sure you make any ad interesting! Make the phone ring!*

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# Buyers Motivation

No matter what the newspaper headlines say or the banks quote as the interest rate, there are always buyers in the marketplace. The real estate market is like a see-saw. When interest rates are high, the prices of homes have a tendency to be softer. When interest rates are low, the prices tend to be stiffer. When the market is active, the buyers get more motivated. In other words, for every action, there is an equivalent reaction in the market.

*What are the reasons that people buy real estate?*

*What types of conditions affect their decision to buy?*

## Making the Decision to Buy

No matter how effective we are as agents, we have no control over the buying decision. Advertising that includes a coupon for a pizza can create a sale in a matter of hours. But the decision to buy real estate is not that impulsive. There is an incredible amount of fear and apprehension before every buyer gets to the point of saying "yes." The concerns that buyers have are based on information they received from their last transaction, their parents, or the newspaper.

*What kinds of fears accompany the buying process for a home?*

*Where do buyers get their information? How accurate are their sources?*

## Selling your Service to Buyers

### **Service is your only product!**

Your motivation in any real estate transaction must spring from a spirit of service....not monetary gain. A successful career in this business can be yours in no other manner.

## AIM

### **ADVISE, INFORM, and make RECOMMENDATIONS**

#### **Advise**

Advise fully. Initially it is your responsibility to advise the buyers about the market and evaluating their needs and wants, as well as how they qualify for a mortgage. As their agent you must advise them on the service you are pledged to perform.

#### **Inform Continually**

It would be a unique day, indeed, if a buyer took an agent to court with the complaint that the agent communicated too much! It is your responsibility to continually inform your buyers when these services are to be extended, how they are to be extended and where results are to be realized. How often should you be in contact with the buyers?

#### **Make Timely Recommendations**

It is your responsibility to make recommendations to your buyers for actions or decisions required of them which will best enable you to represent their interests in obtaining:

The best price, the most favorable terms, a successful closing, with little inconvenience.

# Identify the Types of Home Buyers

Home buyers fall into rather broad, identifiable groups, each with different motivations and capabilities. Often it can be effective to target a category of home buyers and learn to work with them on a consistent basis and ask for referrals based on motivation.

## **First Time Home Buyers**

Whether they are single or married, first time buyers often have a limited amount of money for a down payment and a relatively small monthly income. Often it can take more than one regular income to qualify for a mortgage loan. There are many loan programs that specifically target this group of buyers. They often will look to parents or relatives for advice during the buying process.

## **Move-up Buyers**

Many buyers in this category are married with children and are looking for a home to suit their growing family. The down payment often comes from the equity build up in their present residence. There are often buyers in this category where the income level changes and the home owners can use the equity as a down payment and the higher income level to qualify for a larger mortgage. This category often requires selling the present residence prior to the purchase. There may be a contingency sale involved.

## **Empty Nesters/ Move-down Buyers**

These can include those couples where the children have moved on or where the couple is in retirement. They may include buyers that are knowledgeable about the market or buyers that have owned a home for more than two decades and know little about the current real estate market. They often have a large down payment from their equity in the their present residence and can actually have savings.

## **The Separated Family**

There are times when divorce will be the impetus to buy another home. Only part of the equity in the present property will often go towards the new residence. The buyers may be moving into a smaller, less expensive residence. It can often be a difficult transition.

## **The Real Estate Investor**

Real estate can be one of the best long term investments. Investors look at the property in a different more analytical way than home buyers. Investors most often currently own real estate.

*What types of purchasers have you worked with in the past?*

*What are some of the challenges with the different categories of buyers? Consider knowledge level, income and assets, the need for outside advice, the motivation, and the stress level involved.*

# The Needs of Buyers

Buyers generally have an idea of the type of home that they want. It is wise to ask them take notes and show them the kind of property they say they describe.

One of the most visual ways a buyer can describe the home they would like is to have them cut out the advertisements that most closely picture or describe what they are looking for. Have them ignore price and location when they do that. It can be a good exercise for a husband and wife or a partnership that is purchasing because it gets them talking among themselves.

One of the most common complaints from buyers is that the agent didn't listen to what they said that they wanted to buy. The buyer will describe a one story home with a view and the agents will only show them two story homes. There are many situations where buyers choose a property that is extremely different than what they described to the agent. But, many agents have a tendency to evaluate a buyers needs and show them what the agent thinks that they should want. It is important to listen more carefully when a buyer describes their ideal purchase. Listen to the way the buyer wants the new home to feel. Ask questions that will help you choose properties that the buyer may be interested in.

*What are the kinds of questions to ask buyers to evaluate their needs?*

Ask questions about the current home they live in or own. What do they like or dislike.  
Ask "why" questions. If they want a big yard...why? Will a park next door work?

*Do you have a list of questions that you ask every buyer prospect?*

*How do you keep records and notes about what the buyer says?*

It may be imperative, someday, that you will need to be able to recreate your relationship with a buyer on paper.

# The Fears of Buyers

Most buyers have many fears of purchasing real estate. The purchase could be the largest investment that they will make in their life. So, be conscious of the concerns facing they purchasers.

Their fear can come from past messages from parents or friends. The real estate market took quite a tumble in 2007-2009 before recovering and then spiraling upwards. It has been unpredictable.

The lenders have tightened up on their qualifying standards...

Every buyer has fears when they purchase a property whether it is their first time or they have been through the process many times.

*It is a good idea to ask prospective buyers about the concerns that they might have. One of those concerns might be about their real estate broker!*

# Asking Questions

Though it seems like the most logical way to approach prospective buyers, most agents avoid asking them questions that establish where they have been and where the picture themselves moving. The excitement of having a real live buyer who wants to preview homes often overshadows the importance of building rapport and creating a road map for the journey with the buyers. Take the time to listen to the buyers.

Our most favorite topic is our own life story. Tell your prospects that you need to take a few minutes to learn more about the. Ask them sincere questions in a quiet place.

1. How long have you been looking for a house?  
If they answer more than a week or so, then ask them **why** they haven't bought. Probe deeper if they say that they just haven't found the right house.
2. Who will be living in the house?
3. Where do you live now?  
Get their address and phone number.
4. How long have you lived there? Do you own or rent?
5. Tell me about the home you currently live in. What do you like/dislike about it?  
This often can give you the most clues you will need to find the right house.
6. Do you have the income and assets to purchase a home today? Prequalified?
7. Have you seen any homes that you like?
8. How soon will you be able to move when we find the right home?
9. Are you/ have you worked with other real estate brokers?
10. What is really important when you choose the new house?
11. Have you spoken with a banker/loan officer? Are you Pre-approved?
12. How much money are you planning to use for a down payment?
13. Do you have an idea of the price range?
14. What homes have you looked at to date?

*Don't hesitate to tell your buyers your story!*

# Agency Law

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Identify when you are an agent of the Buyer
- List 5 ways the new agency law defines the relationship between agents and clients
- Recognize when you are in a dual agency situation.
- Discuss when to disclose agency and get consent to dual agency.

Who you represent and what that means in practice is one of the issues that agents often dismiss, but can add to one of the larger liability risks they face.

Agency is a consensual relationship between two parties wherein one of them, the principal, employs or authorizes the other, the agent, to act for and on behalf of the principal. In most general terms, an agent is someone who represents the financial or property interests of another party. The agent may be empowered to do many of the things the principal could do or has chosen not to do personally.

The Law of Agency was amended in 2013 to be consistent with the changes to license law... primarily that real estate brokers are now Brokers, Managing Brokers and Designated Brokers. They are still referred to as real estate agents.

According to the law, a broker will owe certain duties to the public regardless of whom the broker represents. These duties are non-waivable and include:

- Exercising reasonable skill and care,
- Show Honesty and good faith,
- Disclosure of material defects,
- Accounting for money and property
- Providing a pamphlet on agency before any documents are signed.

The duties an agent owes separately to the buyer and seller when they represent them are also described.

### **Seller's Agent**

A seller's agent owes the non-waivable duties to:

- Be loyal,
- Disclose conflicts of interest,
- Advise the seller to seek expert advice on matters beyond the agent's expertise,
- To not disclose confidential information.

In addition, a seller's agent also owes a duty to make a good faith and continuous effort to find a buyer, unless otherwise agreed in writing.

### **A Buyer's Agent**

A buyers agent owes the same non-waivable duties to the buyer. Unless otherwise agreed in writing, a buyer's agent also owes a duty to make a good faith and continuous effort to find the buyer a property.

What is clearly different than the way agents have practiced agency over the past few decades, a broker according to the new law, who works with the buyer is presumed to be the buyer's agent. There are exceptions and they include situations where:

- The broker has a written agency agreement with the seller
- The broker has a written subagent agreement with the sellers agent,
- The broker has a written agency agreement with both parties,
- The broker is the seller,
- The parties agree otherwise in writing.

### **A Dual Agent**

A broker can act as a dual agent only with the written consent of both parties. A dual agent owes the following non-waivable duties:

- Take no adverse action detrimental to either party,
- Disclose conflicts of interest
- Advise the parties to seek expert advice on matters beyond the agent's expertise,
- Keep confidential certain information.

A dual agent also owes a duty to make a good faith and continuous effort to either find a buyer for a seller's property or a property for a buyer.

Prior to the changes that took effect in 2013, exactly what was required to disclose dual agency was not clear. Some people claimed that a dual agency could be created by either selecting a box on the NWMLS Purchase and Sale Agreement indicating the listing agent also represented the buyer, or using a Form 42 Agency Disclosure indicating a dual agency situation.

Under the amended Law of Agency RCW 18.86.020 it states:

"A broker who performs real estate brokerage services for a buyer is a buyer's agent unless the: . . . (c) Broker's firm has appointed broker to represent the seller pursuant to a written agency agreement between the firm and the seller, and the **broker's firm has appointed the broker to represent the buyer pursuant to a written agency agreement between the firm and the buyer**, in which case the broker is a dual agent . . ."

This language requires an agreement between the firm and the parties and that the firm has appointed the broker as agent for both parties. Contact your Designated Broker or Branch Manager how to best comply with this statute when working as a dual agent.

### **Term of agency relationship**

An agency relationship starts when a broker provides services to a principal. The relationship ends at one of the following:

- The completion of the broker performance,
- Expiration of the agreed upon term,
- Giving notice from one party to the other,
- or, Mutual agreement.

After the agency relationship ends, the broker owes no further duties except to account for all money and property received and to not disclose confidential information.

### **Compensation**

The payment of compensation does not necessarily establish an agency relationship. A broker may share compensation with cooperating brokers. A broker may receive compensation from more than one party if the parties agree in writing.

### **Vicarious Liability**

Common law vicarious liability is changed. A principal is not liable for an act error or omission by an agent unless the principal participated in or authorized the act, error or omission. However, if the principal benefited and it is likely that the agent is insolvent, the principal is liable. A broker is not liable for the acts, errors, or omissions of a subagent unless the broker authorized or participated in the act, error or omission. However, this does not limit the liability of the broker for the acts, errors or omissions of an associate broker or salesperson licensed to her or him.

### **Imputed Knowledge**

Common law imputed knowledge is also changed. A principal does not have knowledge or notice of any facts known by an agent that are not actually known by the principal. Also, a broker does not have knowledge or notice of facts known by a subagent that are not actually known by the broker. However, this does not limit the knowledge imputed to a broker of any facts known by an associate broker or salesperson licensed to her or him.

### **Fiduciary vs Statutory Duties**

The changes to the Law of Agency in 2013 also state that brokers will only have statutory duties and not fiduciary duties in dealing with their clients. This eliminates any confusion. In 1996, the common law fiduciary duties owed by an agent were changed by the passage of the new chapter on real estate brokerage agency relationships.

A number of duties concerning the relationship of an agent to the principal; buyer or seller, landlord or tenant, are set forth in statute. ... specifically the Law of Agency.

Statutory duties allow brokers, consumers, and the courts to clearly understand an agent's role and responsibilities by listing them in the context of the Agency Law. Fiduciary duties of loyalty, confidence and trust are often hard to define so the laws more specifically identify the role and duties and agent has regarding their clients.

### **Notes on Agency Law**

These are common issues that are brought up in classes regarding Agency.

1. Different brokers affiliated with the same broker may represent different clients in competing transactions without breaching the duty of limited loyalty or creating conflicts of interest, so long as each broker maintains confidentiality.
2. That a dual agent may continue to market property while a sale is pending.
3. That either party may terminate an agency relationship by giving notice to the other party without affecting any contractual rights of either party.
4. That the Act does not enlarge or diminish the statute of frauds requirement for a written agreement to pay a commission in a real estate transaction.
5. The payment of commission does not create an agency relationship.

# Qualifying Buyers

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Learn questions to ask buyers to prequalify them .
- Know the advantages to having a buyer pre-approved by a lender.
- Explain to the buyer the variety of mortgage loans that may be available.

It is a rare day when a potential buyers walks into your real estate office and wants to purchase a home with all cash. Most buyers are lucky to have scraped together enough cash for a down payment and they need to qualify for a mortgage loan.

If you know the ratios, or if you can run the figures on a calculator, that is not enough information to have before you put the buyers in your car and show them properties for sale. Your time and skills are valuable assets to you, and should only be expended on qualified buyers.

It is important to refer buyers to lenders to have them professionally pre-qualified and often pre-approved for a mortgage loan. Lenders specialize in finance and are familiar with not only the ratios, but also the hundreds of loan programs out there in the industry. Where you may find a buyer doesn't fit the ratios, a lender may have just the right program for them.

The programs that are available to home buyers today are so varied. They range from the 30 year fixed rate loan that is amortized to adjustable rate mortgages with 6 month to 10 year adjustment periods. Some lenders have loans that the borrower has to qualify for within the FNMA guidelines.

HUD did a study when working on the CFPB changes in 2015 and found that approximately 70% of buyers used the first and only lender they spoke with. Make sure your buyers get a Loan Estimate from more than one lender.

*There are many reasons why agents actually avoid referring buyers to lenders to be pre-qualified. What are examples of some of the reasons?*

## **Analyzing Income**

The loan officer does not just list the information on an application, but has to sift through it to determine what is applicable and what is not. Decisions need to be made on how to treat various sources of income, assets and debts. The way they are included on the application can affect the amount of mortgage loan a borrower will be allowed. Each case is different and there is much gray area.

A lender is looking at three aspects of the income; quantity, quality, and durability.

The buyer may have just one paycheck a month for the past several years. But, many buyers have income from more than one place. There are numerous sources of income seen on loan applications.

*What are examples of the wide variety of income that loan officers see on loan applications?*

## **Analyzing Debt and Credit**

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The lender must evaluate the debt and credit history of the borrower for the past 7 years. Revolving credit, installment debt, mortgages and other debts is evaluated on it's history of payment, the total amount owed, and the payment relates to the borrowers income.

### **Assets and Net Worth**

The borrower must show the ability to manage finances. The lender will ask for a balance sheet showing the assets as well as the liabilities for the borrower. The borrower must have enough verifiable liquid assets to cover the down payment, closing costs, and required reserves.

Lenders qualify borrowers applying for a conventional loan using ratios to determine if they have sufficient income to pay the loan. The guidelines that most conventional lenders use are those established by Federal National Mortgage Association (FNMA).

There are a number of factors the lender must consider when qualifying the buyers, but the ratios are the initial step in the process. The ratios are used to analyze the relationship between the borrowers income and the loan payment, as well as the relationship between the borrowers current total debts and their income.

## **Conventional Qualifying**

### **Housing Expense**

The lender evaluates the borrowers position to qualify for a loan based initially using housing expense ratio.

### **Debt to Income**

The Consumer Financial Protection bureau has created standards that affect borrowers qualifying for a mortgage. When a lender qualifies a borrower they must take into account all the borrowers installment debt plus the PITI and that cannot exceed 43% of the borrowers gross monthly allowable income.

## **The CFPB rules that take effect in Jan 2014**

Mortgage lenders are being asked to comply with two new requirements: The Ability to Repay rule and Qualified Mortgages. Here's how they will impact borrowers:

### **Ability to Repay**

- Lenders must determine that a borrower has the income and assets to afford to make payments throughout the life of the loan. To do so, the lender may look at your debt-to-income ratio, which is how much you owe divided by how much you earn per month, including the highest mortgage payments you would be required to make under the terms of the loan. To calculate your debt-to-income ratio, add up all your monthly obligations -- including student loan, credit card and car payments, housing costs, utilities and other recurring expenses -- and divide it by your monthly gross income.
- In an effort to put an end to no- or low-doc loans, where lenders issue risky mortgages without the necessary financial information, lenders will be required to document and verify an applicant's income, assets, credit history and debt. For borrowers, that means more paperwork and longer processing times.
- Underwriters must also approve mortgages based on the maximum monthly charges you face, not just low "teaser rates" that last only a matter of months, or a year or two, before resetting higher.

### **Qualified Mortgages**

- To make sure you aren't taking on more house than you can afford, your debt-to-income ratio generally must be below 43%. This rule is not absolute. Banks can still make loans to people with debt-to-income ratios that are greater than that if other factors, such as a high level of assets, justify the risk.
- Qualified mortgages cannot include risky features, such as terms longer than 30 years, interest-only payments or minimum payments that don't keep up with interest so your mortgage balance grows.
- Upfront fees and charges cannot add up to more than 3% of the mortgage balance. That includes title insurance, origination fees and points paid to lower mortgage interest rates.

The rules also restrict "steering," or practices that give financial incentives to loan officers or mortgage brokers for pushing people into higher-interest loans that they can't afford -- a practice that was all too common leading up to the housing bust.

## **Qualifying for FHA Insured Loan**

In 1989 the FHA loan qualification procedures changed dramatically from a net income to a gross income approach. This change simplified qualifying a buyer for an FHA loan.

### **Ratios**

Up to 29% of the borrower income can be used for the housing expense if the borrower has no monthly installment debt or open revolving accounts.

If the borrower has debt, the proposed housing expense plus the monthly bills should not exceed 38%. This ratio can go as high as 41% if there is:

- a large cash investment,
- a high residual income,
- high cash reserves, or
- Co-borrowers.

The housing expense includes the loan payment including principal, interest, taxes, homeowner's insurance, MIP paid monthly, and homeowners association dues or assessments, if any.

## **Portfolio and Private lenders**

There are other financing options available to borrowers with unique situations.

## **Qualifying Limits**

Once your buyers have been pre-qualified, then stick to those limits. This is what they can afford! It is not as if they have a credit card with no limit. If they want to go way beyond those limits, refer them back to the lender, or to another lender.

If you show them houses out of the range that they can qualify for, you are gambling with your time, money and reputation. You deserve to treat them and yourself, as a professional, with respect.

For the past decade, the average sale to list price has varied about 5% at most in the Puget Sound Area. There is often very little room for negotiations. That small amount of "flexibility" may have to include personal property, discount points or loan fees.

# Showing Techniques

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Identify needs of Buyers as they preview properties
- Recognize the objections buyers have when previewing

This is it! "Showtime!" This is where you will either make the sale or not. Buyers can only buy property that they see. Most often buyers compare as few as 5 to 15 homes before they write up an offer. You need to show them the best homes that meet their criteria.

Buyers complain most often that agents do not show them properties that meet their needs. The homes are often not even remotely like the homes that the buyers described.

Never show only one property. Let's say the buyers come in to the office with one house in mind that piques their interest. Plan to show several other homes that might also meet their needs.

Make appointments with the buyers BEFORE you plan what to show them. If you plan a tour, you are wasting your time unless you have an appointment.

Listen to the buyers. Listen to their needs and wants. One of the biggest complaints from buyers is that the agent didn't listen.

Analyze the market and search for properties that fit their criteria

Call the sellers or make arrangements online and to show the property.

Show homes in groups of three. Ask at each home how it compares with the home that they liked best. Close after every three homes sold.

Don't oversell the house before you show it.

Ask the buyers if they want to buy the house. It seems like a simple question but often agents forget to ask. It is as if you are giving the buyers permission to say yes and make the decision to buy when you ask them.

Keep the buyers together when showing the house.

Don't follow them around on their heels or make too much effort to "show" the house.

You are selling dreams and emotions. Ask the buyers how they feel about the house.

Be enthusiastic!

Make every word said in the house a part of a question.

Bring copies of the contracts with you or have the ability to draw up contracts on a computer at every showing.

Consider the value of the camera and video on a cell phone for remembering the houses.

# What is a Home Worth

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Compare appraisal, assessment and market analysis opinions of values
- List responsibilities of an agents when completing a market analysis for a Buyer

There is no magic way to determine what the "real value" of a house is today. Value is very subjective. We can think as agents that we really know what that split level in that development is worth. But, we can be surprised when a buyer and seller agree to a price and terms that is not what we anticipated. Value is not based on logic, function, location, depreciation, improvements, or history. It is a concept that is difficult to define and more difficult to determine.

The definition of value in real estate is "the present worth of future benefits."

## **Appraisal vs. Assessment vs. Market Analysis**

### **Assessment**

Assessment is the official valuation of real property for tax purposes, based on appraisals by local government officials. In Washington, the assessed value is supposed to be the fair market value.

*Can you assume that the tax assessment is an accurate reflection of the current value of a home?*

*Where can you find the current assessment on a home in this county?*

### **Appraisal**

An appraisal is one person's paid opinion of a property's value on the day it is appraised. The primary purpose of an appraisal in a real estate transaction is to protect the lender. If the lender does not loan more money than the property is worth, then in the event of a default and the lender has to foreclose, the lender should be able to sell the property for at least the balance of the mortgage. Appraisers in Washington State must be licensed.

Appraisals can also be done for a variety of reasons other than the real estate sale. For example, to determine the value for a divorce settlement, insurance purposes, relocation, death, etc.

*Who pays for the appraisals?*

*How do appraisers arrive at the figures they use for adjustments?*

*Do appraisers look at current listings...the competition?*

### **Market Analysis**

Market Analysis is known as a comparable market analysis, competitive market analysis, complimentary market analysis or CMA. It is an opinion of the current market value of a property from a licensed real estate agent.

*What are your responsibilities and liabilities when you, as an agent, do a market analysis for a buyer?*

## Real Property vs. Personal Property

### LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Define personal and real property
- List the fixture tests for attachments
- Learn how to include personal property in a purchase agreement

One of the most common disputes at closing involves what was personal property and what was attached to the real property as a part of the sale.

What are attachments?

Natural (trees, plants, crops)

Man-made (fixtures)

What are the "fixture tests?"

Method of Attachment

Intention of the annexor

Adaptability to the realty

Relationship of the parties

Evidence of a written agreement

*Can an item be a fixture and change to personal property and back again? (think of a toilet, for example)*

*Should personal property be included in a market analysis report when determining value? A boat?*

*If there is an item of personal property included in the listing is it automatically included in the sale, if not written in the purchase and sale agreement? The childrens play equipment, for example*

*When is the hot tub a fixture? Or not?*

*What about prize rose bushes? Are they in the ground?*

*Does "tagging" items automatically make them personal property? Tagging is not a legal term.*

*Why would an agent write in an offer "the refrigerator is of little or not value?"*

# Contracts

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Define the 5 elements to a valued contract
- List the legal status of contracts
- Know 5 ways to terminate a contract
- Compare the 4 remedies to a Breach of Contract
- Understand buyer contracts

## What Constitutes a Valid Contract?

A listing agreement is a kind of employment contract between a seller and a broker. In order to enforce the payment of a commission, the agreement must be in writing. There are five essential elements for a real estate contract to be valid.

### 1. Capacity

To enter into a valid contract, a person must be at least 18 years old and be legally competent.

*What if the buyers are drinking or just got back from the weed store when they sign a contract?*

### 2. Mutual consent

All the parties to the contract must consent to its terms. It is achieved through offer and acceptance. The acceptance must not vary the offer's terms or it creates a counteroffer. Mutual agreement occurs when there is constructive delivery which includes delivery after a final signature agreeing to all terms is delivered to the other party, the other party's broker, the other party's agent or the office of the other party.

*When is a contract accepted? What about minor changes? What if only one spouse signs?*

### 3. Consideration

The parties must exchange something of value. The consideration can be in the form of money or a promise. In the case of a purchase and sale agreement, it is a promise for a promise. An earnest money amount is NOT required for a valid agreement. The real estate agent no matter what is written on the agreement does not make the decision in the case of a dispute over an earnest money if the sale fails. The dispute goes to interpleading in the courts.

*What if the buyers agent does not bring alone a check for earnest money when the offer is presented.*

### 4. Lawful purpose

The purpose of the contract must be lawful at the time it is made. In other words, if a contract is fraudulent it is not valid. Any contract that contains provisions that are not legal or a contract with out written provisions that are key to the transaction may no be valid. Check to see if the seller is owner of the property as recorded on the last deed. The "seller" could be the tenant!

Any terms and conditions must written on the purchase and sale agreement and it must accurately and honestly reflect the true terms of the purchase or there could be fraud. The contract then goes over a little wire across state lines to a lender and it could become federal wire fraud. Hmmm.

*What if there is fraud involved? What if the parties are not who they say they are?*

### 5. Statute of frauds

This refers to the provisions of the Washington State Code that requires real estate contracts to be in writing. Listing agreements must be in writing in order to enforce the payment of a commission.

*There are times in real estate sales where agents get agreements from clients over the phone. What is the problem with these verbal agreements? They can range from closing date to a verbal counter offer.*

*So you have this purchase and sale agreement.*

*The husband just had another beer. The wife is out of town. They seem to have more than one identity. Clearly, there are problems. Make sure you consult with your designated broker before moving forward!*

**What exactly is the property you are selling?**

Though most purchase and sale agreements often identify the property with the street address and check that the legal will be attached, it is best to attach the legal description right away. The legal description often is taken from the deed from the last sale. When it is attached to the listing agreement, it should be initialed and dated. With the new disclosure law, the legal description has to be attached to the disclosure form by the sellers.

**Contracts Summary**

**Classifications**

<b>Express</b> (parties have agreed) vs. <b>Implied</b> (inferred by conduct)	<b>Unilateral</b> (one promise) vs. <b>Bilateral</b> (two promises)	<b>Executory</b> (not fully performed) vs. <b>Executed</b> (fully performed)
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**Ingredients for a Valid Contract**

<b>Capacity</b>	<b>Mutual Consent</b>	<b>Consideration</b>	<b>Lawful Purpose</b>	<b>Statute of Frauds</b>
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**Legal Status of Contracts**

<b>Void</b> No legal contract exists	<b>Voidable</b> Can be voided by one party	<b>Unenforceable</b> Parties can complete but it is unenforceable	<b>Valid</b> Binding and enforceable
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**Terminating a Contract**

<b>Full Performance</b> Contract is executed	<b>Agreement Between the Parties</b> Parties both agree	<b>Assignment</b> Transfer of rights or duties to third party	<b>Novation</b> Substitution of a new contract	<b>Accord and Satisfaction</b> A new agreement between parties
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**Remedies for Breach of Contract**

<b>Rescission</b> Parties put back in original position	<b>Liquidated Damages</b> Damages agreed to in the contract	<b>Actual Damages</b> The amount of money actually lost	<b>Specific Performance</b> Court forces party to complete the agreement
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Real estate agents must understand that they can draw up contracts with limitations. But, if there is a problem or dispute over a contract, the real estate agent is not to be the one to determine the outcome. The FIRST thing an attorney looks at is the contract if there is a dispute. Do you have a valid contract? If a party wants to terminate the contract, breach, or try to say it is void, the issue must be referred to an attorney!

# Buyer Commission and Contracts Considerations

Prior to 1995, real estate agents, most often, represented sellers and had a customer relationship with the buyers. The relationship was detailed in the rules of the multiple listing association. The real estate commission was paid by the seller to the agent that worked with the buyer. Since multiple listing agencies and the National Association of Realtors eliminated the offer of subagency, agents have struggled to define more clearly their relationship with real estate buyers.

The Washington State Law on Agency states that a broker who works with the buyer is presumed to be the buyer's agent unless the broker has a written agency agreement with the seller, a written subagency agreement with the seller's agent, a written agency agreement with both the buyer and the seller, the broker is the seller, or the parties agree otherwise in writing. The payment of compensation does not necessarily establish an agency relationship.

Buyers have a tendency to work with more than one agent during their home search. There are no precedents in the residential industry on procuring cause for a sale. To better define the relationship and expectations with a buyer and disclose the agency relationship, a written contract between agents and buyers is becoming more common.

Listing agreements are, most often, exclusive agreements. When a seller lists their home with an agent, they typically work with that agent until the property sells or the contract expires. It is not common for a seller to interview other agents, let those agents market the property, or agree verbally to pay another agent the listing commission. The listing agreements are often standard forms used by most companies in an MLS.

## Class Action Lawsuit in 2019 Largest in History

The real estate industry is rocked across the country with a class action lawsuit against the National Association of REALTORS and most of the top real estate franchises in the country. The lawsuit originates with a seller, Christopher Moehrl in Edina Minnesota who questions the compensation paid to real estate brokers.

Christopher Moehrl is a resident Minnesota who listed his home for sale in 2017. The home was listed on the Northstar MLS. He was represented by a REMAX franchisee and the buyer was represented by a Keller Williams franchisee. As part of the transaction, he paid a total broker commission of 6%. The buyer's firm was paid 2.7% of the total commission paid by the seller. He started wondering why he was paying so much money to the buyer's agent because it wasn't evident that the commission matched the work he perceived.

The lawsuit claims a conspiracy with the National Association of Realtors, MLS's, and member brokers/firms. Briefly, the lawsuit claims:

- Realtors/MLS rules require all brokers to make a blanket non-negotiable offer of buyer broker compensation when listing on the MLS.
- The consumers are saddled with a cost that would be borne by the buyer in a competitive market.
- Without the rule, the buyer brokers would be paid by their clients and would compete to be retained by offering a lower commission.
- The Realtors and firms have kept buyer broker commissions in the 2.5 to 3% range for many years despite the diminishing role for buyer brokers.
- Buyer broker costs are similar regardless of the price of the home, yet they are paid based on the price of the home.
- Home sellers are forced to pay commissions to buyer brokers, their adversaries, in negotiation to sell their homes, therefore substantially inflating the cost of selling their homes.
- Home sellers have been compelled to set a high buyer broker commission to induce buyer brokers to show their homes. Home sellers have paid inflated buyer broker and total commissions.

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- Price competition among brokers to be retained by home buyers has been restrained.
- Competition among home buyers has been restrained for the inability to compete for the purchase of a home by lowering the buyer broker commissions
- Real estate firms have increased their profits by inflated total commissions.

In addition, the lawsuit claims:

- A comparison of commissions paid in other countries with those of the US shows brokers in US are much higher.
- Commission rates have doubled over the years because house prices have risen. Rates are more than double the rate of inflation.
- There is a great conspiracy between the member firms and the MLS/Realtors.
- The buyer brokers are entirely compensated by home sellers.
- The structure of the MLS is such that an alternative MLS would not survive so there is no competition
- Realtors advise MLS to enter into non compete agreements with third party websites such as Zillow..

The example using the commission in other countries includes the UK. There is no MLS in the UK. The listing fees have sun since 2011. The seller pays on ly the listing agent who does not have the MLS fees and Realtor dues. Buyers find a house and pay a solicitor (attorney) to write up the transaction. The taxes for a buyer can be almost 15%. It is not effective to compare the two countries.

In the class action lawsuit, it includes a script used to train real estate agents dealing with a seller who wants to reduce the buyer's firm commission to save money. The training script at a major franchise gives agents a response to a seller. "When you reduce the commission, you reduce the incentive for that agent to bring a buyer to your home." The script goes on to say, "If an agent has 10 different houses to show, nine of which have an X% commission and one of which comes with a lower commission. Which house do you think they are going to show?" The lawsuit is trying to show collusion between firms.

This lawsuit is quite far reaching touching most of the major franchises and the National Association of REALTORS. It will most likely be in the courts for many years to come. No formal changes have been suggested by NAR to member MLS's

## **National Association of REALTORS (NAR) Responds to their Members**

The general counsel for NAR calls the lawsuit "baseless." According to NAR the question is, "Who really has the best interests of the consumers in mind? It is the attorneys for the plaintiffs or the REALTORS who help people navigate the most significant purchase/sale they'll ever make?" NAR published an article in the September-October 2019 magazine with an outline of their response. The brief article lists 4 reasons the MLS promotes a procompetitive market for real estate. The lawuit has joined others as a larger class action lawsuit.

Here is an outline of the 4 reasons.

1. REALTORS are champions of homeownership, property rights and the communities they serve. They adhere to a strict code of ethics.
2. The MLS system and the way commissions are paid create competitive, efficient markets that benefit home buyers, sellers and small business. commission structure ensures greater access for a large community of home buyers who might otherwise be priced out of the market.
3. Local expert brokers play a crucial role in helping buyers and sellers achieve their goals.
4. These lawsuits are wrong on the facts, wrong on the economics and wrong on the law. Commissions are negotiable and can be negotiated at any point during the transactions.

## **The Department of Justice Opens Investigation**

The Department of Justice has opened its own investigation in 2019 into real estate sales apart from the lawsuits. They have demanded information from CoreLogic, which is a platform for most of the MLS's in the country.

They are looking into whether or not MLS services prevent competition in the real estate fee structure. The question is whether agents are engaging in anti competitive practices. One such practice is that brokers in some areas can filter listings by the commission offered. In some markets, agents have been trained to only show properties with a certain minimum commission.

## **Northwest MLS Changes Compensation Disclosure**

In response to the class action lawsuit against the National Association of REALTORS, the Northwest Multiple Listing Service (NWMLS), has changed rules that could have a dramatic impact on the real estate industry in the Puget Sound Region. NWMLS is the largest MLS in Washington State but it is not the only MLS. It is not managed or affiliated with the National Association of REALTORS or the Washington Association of REALTORS.

This is the information released in the summer of 2019.

### ***Three Changes to Real Estate Commission Disclosure***

*The Northwest MLS has voted to change the disclosure of commission to increase transparency and flexibility for the consumers. The changes will take effect in October 2019.*

#### **1. Publishing the Selling Office Commission**

*The first change is that the Listing firm will be allowed to publish the Selling Office Commission (SOC) on the firm's public website. The amount of commission paid by the Seller to the Buyer's agent will be on the IDX and VOW websites and the client portal in the Matrix system.*

*"Making this information readily available to consumers allows for complete transparency with regard to buyer's broker compensation and provides consumer with additional information at the outset of the transaction," according to the NWMLS. "Early and better access to all the relevant information about a real estate transaction will help consumers make informed decisions about every component of the listing, selling, and purchasing of real estate."*

#### **2. Seller not required to Offer Commission to Buyer's Broker**

*The second change removes the requirement that a listing contain an offer of compensation to the buyer's broker. That would mean that the seller may not have to publish a payment of commission to the broker that procured the buyer.*

*According to the Washington State Law of Agency RCW 18.86 : Brokers are not required to show properties as to which there is no written agreement to pay compensation to the buyer's agent.*

*The NWMLS will change the forms to alert sellers that the buyer's brokers are not required to show property for which there is no written agreement to pay compensation to the buyer's broker. This is just a notice as it has been in the Law of Agency for decades.*

#### **3. Buyers' Broker can Negotiate Commission with Seller**

*If the seller does not publish an offer of compensation to the buyer's broker, the revised rule allows the buyer and the buyer's broker the opportunity, as a part of the buyer's offer, to negotiate for compensation for the buyer's broker.*

*The NWMLS explains, "This change allows for greater flexibility for sellers when listing property, while affording buyers and buyer's brokers a vehicle for negotiation for compensation (if none is offered) when*

*making an offer to purchase.” On the other hand, the commission for the buyer’s broker has been typically paid by the seller at closing. If the buyer is required to pay the commission to the buyer’s broker, that may affect the opportunity for the buyer to qualify to purchase the house as lenders may not let them finance the commission amount.*

*Then there is the issue of representation. According to WA state Law of Agency, the agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the licensee. The brokers that represent buyers’ in transactions will lose buyers who purchase directly from the listing agent to “save” the commission. Those buyers may not understand that in that case, they will have no representation in the transaction.*

### ***Selling Firm Commission Addendum***

*The form 41(c) is revised to include the three options for buyers and buyers’ brokers to negotiate for compensation from the seller.*

- 1. If there is no offer of compensation in the listing, the form will allow the buyer and the buyer’s broker the opportunity to negotiate for compensation for the buyer’s broker to be paid by the seller:*
- 2. Consistent with the current Rule 104(d), the form will allow the buyer and buyer’s broker the opportunity to negotiate for additional compensation from the seller, where the SOC is less than the buyer’s obligations to the buyer’s broker in a Buyer Representation Agreement; and*
- 3. If the property is not listed (i.e. a For Sale by Owner (FSBO), the form will allow the buyer and the buyer’s broker the opportunity to negotiate for compensation for the buyer’s broker to be paid by the seller.*

### ***Buyer Representation Agreements***

*The rule revisions may increase the use of buyer representation agreements (Form 41A Buyer Agency Agreement) While not required under WA state Law, many buyer’s brokers are not using the forms. The seller has an agency agreement within the context of the listing agreement. The seller has always been able to determine the level of compensation they want to offer a buyer firm.*

*The Buyer Agency Agreements have been in use for many years, but most brokers have been avoiding them. Form 41(a) gives the consumer the option to have an exclusive Agency Agreement or not with a real estate broker. Brokers, the NWMLS and the Dept of Licensing have encouraged buyers’ broker to use the form.*

*The Buyer Agency Agreement establishes a formal, contractual relationship with the buyer. In addition, it provides for the payment of commission for the buyer’s broker services in the event the seller does not offer sufficient compensation for the buyers’ broker. The buyer and the buyer’s broker can agree about the payment of commission. The revised form also provides that the buyer is responsible for inspecting the property to ensure that the property is suitable for the buyer’s needs. This form has a provision which entitles the prevailing party in any dispute to recover its reasonable attorney’s fees and costs.*

*The Buyers Agreement No Agency has also been revised with similar terms.*

## **The Future and Implementation of the new NWMLS Rules**

***“If you drop an ice cube into a hot cup of tea, it might affect the temperature of the tea .... and it might not!” says Natalie Danielson.***

There are many factors involved including timing. The rules went into effect in October 2019. Some brokers wave them off as just a reaction to the lawsuit. Others think that the way real estate compensation is negotiated will throw the industry on its head. Only time will tell.

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There are questions to use to evaluate the contracts that you may use. Agents need to understand the rights and responsibilities when they sign a contract with a buyer. The buyer, also, needs to understand what they are agreeing to in a contract.

### **Advantages of Working with a Buyer Contract**

Despite all the objections and challenges that go along with a buyer contract, there are advantages for the buyer, as well as, the agent.

These advantages can include:

- A buyer may be more loyal to the agent
- The agent may have more control over the situation and the problems that arise
- There is a more formalized relationship that has definition and boundaries
- The agent often can earn more respect from the buyer
- The agent will weed out more motivated buyers.

### **Questions to Evaluate Buyers Contracts**

Do you really understand the Buyer Agency Contract? It is important to understand what you are having your clients sign. You should know what the terms are included. Here are some questions to ask yourself.

- What is a “buyer contract?” Have you actually read one in the office recently? Check it out!
- Is the contract an exclusive one? Is the buyer agreeing to work with only one agent?
- Who pays the commission? When is the commission owed?
- Is the commission tied to a percentage of the list price or the sale price?
- Can the agent be paid two commissions?
- When does the contract expire?
- How can a buyer terminate the contract? How can the agent terminate the contract?
- Is there a geographic boundary?
- Is there consensual dual agency? What if the buyer wants to purchase the agents listing?
  - What about a listing in the buyers office?
- What if the selling office commission is larger than the amount agreed upon with the buyer?
- What if the seller or selling office offers a bonus to the selling agent?
- If the sale fails due to failure of the buyer to perform, is the commission still due?
- What if the buyers position changes and they no longer qualify to purchase, is the contract terminated?
- What if the sale fails due to buyer not qualifying?
- If the sale fails, does the contract continue in force?
- Is the agent expected or required to show For Sale by Owner or other unlisted properties?
- What if two buyers the agent is working with want to make an offer on the same property?
- What is the current status of enforceability of the contract? Who will enforce it?
- Does the contract address a buyer deciding to lease instead of buy?
- Do you understand the NWMLS form 41 in regards to buyer agency?

# Writing a Purchase and Sale Agreement

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- List the 10 critical elements on a Purchase and Sale Agreement
- Detail the steps to prepare an agreement
- Recognize the different techniques of negotiation

Contracts are legally binding once signed. The decision to purchase real estate is one of the most major ones in our lives. As agents, we are used to dealing with contracts and we often forget the pressure on the purchasers when they sign the bottom line or "approve the paperwork" as some trainers profess.

The first time your purchasers see and read the purchase and sale agreement should not be the moment you have been waiting for when they make the offer! Pull out the contracts and discuss them at the first meeting you have with the purchasers. If you make the assumption that the purchasers understand the agreement because they purchased in the past, you may be making a mistake. Think about how many changes the contracts have gone through in the last year. It is hard for real estate agents to keep up with the changes.

## **Ten Critical elements on a purchase and sale agreement**

1. The complete names and how they will take title if they know. If not, the agent cannot advise them!
2. The complete legal description. If it is attached at the time of signing it does not necessarily have to be initialed. (where you find the FULL legal description including easements, etc?)
3. The amount of earnest money and a clear date if it is not to be deposited upon acceptance. Earnest money is NOT required for a valid agreement.
4. The purchase price.
5. The size of the down payment and how the remainder of the purchase will be financed.
6. Any items of personal property to be included.
7. The agency disclosure.
8. The dates for closing, contingencies and notices.
9. The length of time the offer is valid.
10. The signature of all buyers and initials on all changes on the contract.

## **Preparing and Presenting Purchase and Sale Agreements**

### **Meeting with the buyers**

- Try to make sure that the first time a buyer sees the offer is not when they are about to sign it.
- Let the buyer talk and make decisions. Don't tell them what to offer.
- Buyers don't like to be "sold." Buyers like to "buy."
- Prepare the buyers for a counter offer.
- Arrange to meet the buyer in person after the seller signs the offer.
- Give the buyer a copy of the signed agreement.

### **Preparing to Present the offer**

- Report the offer to the listing office. Include agency disclosure and contingencies, if applicable.
- Find out the procedure for presentation.
- If the seller is looking at all offers on Tuesday, for example, do not wait until Tuesday to turn in the offer!
- Be familiar with the history of the listing.
- Make sure you have a letter of prequalification from the lender.
- Always keep the offer confidential, even to agents in your office.
- Forward copies of the agreement and all addendum's for the sellers.

### **Presenting the offer**

- The listing agent will typically explain to the sellers their three options.
  - The seller can sign the offer and sell the house.
  - The seller can decide not to sign and therefore not sell the house.
  - The seller can counter-offer which is a "maybe I'll sell the house."
- Make sure that all parties initial and date any changes on the offer or counter-offer.

### **Amending the Agreement**

- Use an addendum for any changes to the offer
- Obtain signatures.
- Keep all copies of addendum's with the original agreement.
- Make sure that all addendum's are given to the escrow officer.

### **Notices**

- Watch when there must be written notice to the other party in the transaction when some part of the agreement has been satisfied or waived.
- Watch for dates.

### **Contingencies**

- Make the contingency clear in describing what has to be done and who is responsible.
- Make the consequences clear should the contingency not be satisfied.
- Watch for dates.
- Which party is to pay for any fees relating to the contingency?
- What happens if the time periods are not followed?
- Which party will benefit under the contingency or, in other words, who makes the ultimate decision.

### **Handling Inspections**

- Always suggest to a buyer to pay for a professional licensed inspection.
- Give the buyer more than one referral.

- Try to accompany the buyer on the inspection but do not follow the inspector around.
- Let the buyer choose what to put on the inspection addendum.

## **Negotiation techniques**

Never make the other party "wrong" or put them in a defensive situation.

"Mr. and Mrs. Seller, your house is not worth what you are asking because of its condition."

This kind of statement does not help build rapport. Agents make these statements constantly when trying to convince the seller to take a low offer.

Always "understand" where the seller and buyer is coming from.

Listen. Listen to everything the buyers and sellers say. They have "telling tension." Let them talk.

Ask about their concerns. You may be concerned about the offer that is 3% below list while the seller is stressed about the dates and the fear of the inspection, for example.

Sell the offer NOT the buyers or sellers or neighborhood. Do NOT Discriminate or show any preference or limitation.

Be empathetic. Be enthusiastic. Be confident. Be relaxed.

# Misrepresentation and Disclosure

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Identify the different types of Frauds
- Recognize the responsibilities of an agent.
- Discuss areas where agents make innocent misrepresentation.

Misrepresentation of a material fact is fraud when a person relies on the misrepresentation as the truth in deciding to enter into a transaction. This is the cause of most of the lawsuits in Washington State.

### **Active fraud**

Active fraud is when an agent intentionally misrepresents a material fact concerning a transaction. It includes statements made recklessly, incomplete statements designed to conceal a defect.

### **Passive fraud**

There are times when saying nothing is as wrong as saying the wrong thing. Passive fraud imposes liability for silence where there is a duty to speak.

### **Negligent misrepresentation**

You are held up to the standards of a prudent real estate agent. Negligent misrepresentation imposes liability for affirmative false statements which the broker did not know were false, but *should have known* they were false. It involves an affirmative misstatement of fact.

### **Negligence**

There are occasions when an agent did not use reasonable care and skill. Negligence imposes liability based upon the failure of the broker to discover a defect and advise the buyer of the defect. It involves silence in the fact of a duty to speak.

### **Innocent misrepresentation**

Innocent misrepresentation imposes liability based upon the agent's misrepresentation of facts even though the agent had no reason to know that the represented facts were false. The Washington courts have refused to hold an agent liable for purely innocent misrepresentations. But, there is a fine line between what is considered innocent and what a broker *should have known*.

*Have you experienced a situation where an agent was intentionally misrepresenting a fact about a transaction?*

*When are you as an agent liable for misrepresentation? What if you guessed that the water line along the basement wall was due to flooding but the seller never said anything so you kept your mouth shut?*



## **Disclosure**

The Property Information Disclosure is now a state law RCW 64.04. The sellers fill out the form or the buyer has to waive right. There are some sellers that are exempt. The Disclosure Law Form deals strictly with the structure of the property itself. Agents are NOT to fill out the form.

The form is a vehicle for the seller to disclose any information about the structure and title of the property. If there are facts that are not asked on the form, the seller can attach additional pages.

What has to be disclosed by the seller is not completely defined. The only statutory definition of material fact is in the Law of Agency RCW 18.86. It states that information that “substantially, adversely affects the value of a property” or information that “impairs or defeats the transaction” is a Material Fact. In more simple terms, a seller and agent need to disclose anything that would affect the buyer’s decision to buy or how much would be paid.

The Law of Agency also says that certain information is NOT considered a material fact.

“The fact or the suspicion that the property or any neighboring property is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, political or religious activity, or other act, occurrence or use not adversely affecting the physical condition of, or the title to the property is not a material fact.”

If you happen upon a prospective listing whereby there was a “negative stigma” that could affect a buyer’s decision to buy, it is important to contact the broker and corporate attorney about disclosure to the buyer!

If the seller doesn’t want to fill out a Property Information Disclosure form the buyer technically has the right to walk any time before closing. Contact your designated broker should you be in this situation.

## **Inspections**

It is important that real estate purchasers hire home inspectors to inspect the property prior to closing. The purchase and sale agreement should include the forms and provisions.

Due to an active market in the Puget Sound Region, many real estate agents actually encourage purchasers to waive the right to an inspection. It must be noted that words such as “AS IS” will never protect the seller nor the agent. A purchaser can still sue the seller and the real estate agent if something was discovered after closing that was not disclosed and the buyer waived the inspection!

Misrepresentation is the largest source of lawsuits. Most of them are due to problems caused by water. They can include problems from leaky roofs, mold, broken pipes, septic or sewer issues or the lack of adequate water flow.

Inspectors in Washington State will have to be licensed. You are to be careful when referring home inspectors. Your broker will have a policy for referrals of home inspectors.

# Fair Housing Laws

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Know the Fair Housing Laws
- Recognize the protected class under Federal Laws.
- List commonly used words that may violate Fair Housing Laws

Unfair discrimination is prohibited in almost all real estate transactions by federal and state laws.

## **Federal Laws**

### **Civil Rights Act of 1866**

Right after the Civil War, the Civil Rights Act of 1866 was passed stating that "all citizens of the United States shall have the same right in every state and territory as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property." The act prohibited discrimination based on race or ancestry. In the 1960's the Act was challenged and upheld in the case of Jones v. Mayer. The Supreme Court held that the 1866 Act "prohibits all racial discrimination, private or public, in the sale and rental of property." Someone who has been discriminated against in violation of the Civil Rights Act of 1866 can sue in federal court. The court can issue an injunction to stop discriminate, it could order defendant to pay compensatory damages, and/or to pay punitive damages.

### **Federal Fair Housing Act**

One month after Martin Luther King died the President Johnson signed the Title VIII of the Civil Rights Act of 1968 making it illegal to discriminate on the basis of race, color, religion, sex, and national origin. In 1988 the Act was amended to include handicap and familial status. The Act prohibits discrimination in the sale or lease of residential property or in the sale or lease of vacant land for the construction of residential buildings.. The law also prohibits discrimination in advertising, lending brokerage, and other services in connection with residential real estate transactions.

It is enforced by the Department of Housing and Urban Development through its Office of Fair Housing and Equal Opportunity.

### **Prohibited Acts**

- Refusing to sell or rent a dwelling based on any prohibited criteria
- Discriminating in terms or conditions of the sale or rental of a dwelling based on prohibited criteria
- Engaging in conduct that makes a dwelling unavailable because of prohibited criteria
- Publishing any material or advertisement that indicates a preference, limitation or discrimination based on prohibited criteria
- Representing that a dwelling is not available because of a prohibited criteria when in fact it is
- Engaging in Blockbusting practices
- Denying access to or participation in a multiple listing service based on prohibited criteria

## **Familial Status and Handicap**

In 1988 these two classes were added to the law.

- Familial Status prohibits discrimination against a person because they have children. Parents, legal guardians, pregnant women, and those in the process of obtaining custody. "Adults only" complexes are forbidden unless they qualify as housing for older persons.
- Handicap covers persons that have a physical disability or mental impairment that substantially limits one or more major life activities. This includes people suffering from chronic alcoholism, mental illness, or AIDS. It doesn't cover those that are a danger to others or those using illegal drugs.

## **Washington Law Against Discrimination**

Washington State Law in RCW 49.60 prohibits discrimination in employment, credit, and insurance transactions, in public resort accommodation or amusement and in real property transactions because of race, creed, color, national origin, sex, marital status, age, or the presence or any sensory, mental, or physical disability or the use of a trained guide dog or service dog by a disabled person. Individuals with HIV or perceived HIV infection shall be evaluated in the same manner as other claims of discrimination based on sensory, mental, or physical disability. It also includes Sexual orientation as a protected class.

The law applies to ALL real property transactions including sale, appraisal, brokering, exchange, purchase, rental, or lease of real property or applying for a real estate loan.

The Washington State Human Rights Commission was created to administer the law.

When advertising, bear in mind that you cannot use words that are discriminatory in nature. A case was won against the Seattle Times newspaper where an ad said, "two blocks from St. Mark's cathedral." These words can include, but are not limited to:

Adult	Bachelor
Couple	Family
Mature	No Children
One Person	Retired
Sex	Single
Two people	Christian
Executive	Exclusive
Handicap as in not suitable for...	Integrated
Membership Approval	Mentally Ill
Religious	Religious Landmark
Older Persons*	Senior Citizens*
Physically Fit Person	Private
Race	
Restricted Senior Discount (may be exempt if specific criteria met)	

*Discuss why these words in ads may be discriminatory? Have you ever used any of them?*

## **Love Letters from Buyer to Seller can be Toxic**

**Roses are Red,  
Violets are Blue,  
Because of your letter  
I'll sell my house to you.  
"NO!"**

Whether a poem, photo collage or a love letter, buyers are trying to "promote" their offers to the sellers. Especially as the real estate market heats up and buyers may be competing with other offers that may be higher, writing a personal letter to appeal to the sellers emotionally to accept the buyers offer is becoming more common. The love letter is an attempt to entice the seller into accepting an offer based on factors when they have nothing to do with the purchase and sale agreement. There are articles all over the internet, samples of letters, and even templates.

Though it may appear innocent enough, the love letters can encourage a seller to discriminate when choosing a buyer for their home. The seller and the real estate agents must not violate Federal, State and local anti discrimination laws. Home owners selling their home cannot choose one buyer over another based on a protected class. Protected classes are NOT "minorities." EVERY person falls under protected classes.

The love letters that are on websites from national news to Realtors most often describe the buyers as a "married couple with children." Familial status is a protected class in the Federal Fair Housing Act. Familial Status and Marital Status are protected in almost every State and Local anti discrimination law. If a single woman, a gay couple with no kids, a single man, or a senior are bypassed because the seller goes with emotion and chooses the little family, the other buyers have just as much right to purchase the property. Take it one step further. Many times the letters include photos of the little family and their pooch. The sellers could be encouraged to discriminate based on race, color, national origin or religion based on the photo.

### **Are the letters discriminatory?**

Consider how often a real estate agent would encourage buyers that originate from another country, are disabled, have misunderstood religious beliefs, is LBGT? Everyone, regardless of their background, beliefs, health/disability, etc has the right to purchase a home in the area chosen.

When a seller chooses one buyer over another using any information that could be construed as discrimination, the buyers that lost the property have the right to file a case of discrimination.

Let's say the seller and the real estate broker sit at the dining room table reading the "love letters" and they do choose the buyers based on, for example, the fact that they are married with children. They assume that no one will find out. It is still a federal crime!

If a buyer files a discrimination lawsuit against the seller and the real estate agent, the fines can start at \$10,000 and the real estate agent and the seller would be required to tell the truth under oath. Real estate agents are bound by federal state and local discrimination laws and cannot discriminate. The broke may not be covered by E & O insurance for a federal violation.

Many real estate agents create a spread sheet with basic information on the offers so that they can be evaluated in that fashion. Make sure that the offers are available to the seller to review.

*If you speed down the road thinking you won't be caught, you still are violating a law. Unknown to you there might be radar, a curve you missed or a pedestrian that took a picture of your license plate. You are still violating a law whether you get caught or not.*

The seller of the property is best to “*Choose the Paper... not the People*” when signing a purchase and sale agreement. Choose the offer on the property based on the terms of the contract and not the family, color, race, age, orientation, etc of the buyers. Do not open up the door to a discrimination complaint.

### **Single Woman Sues Real Estate Agent for Discrimination**

In May of 2004 a young woman said she encountered discrimination when she tried to buy a house in Tacoma ... not because of her skin color, age, religion or ethnicity. She was discriminated against because she is single and a woman. She made an offer on a lovely two story house in Tacoma. “It was my dream house. A house that I wanted to purchase to raise a family,” she said. The asking price was \$196,000. She offered \$199,000 and was pre approved for the mortgage.

The listing broker said, “Your deal was a better one but they decided to go with the other deal just because it was a married couple and they felt they would be a little more stable.... They were a bit nervous about it being a single woman trying to buy the house and they were just concerned it would come down to financing and something could possible go wrong.”

It was discriminatory. The Federal Fair Housing act clearly states that it is unlawful to discriminate based on sex and familial status. The case was settled with the real estate company prior any court hearing.

The sellers of a house are liable under Federal, State and Local Fair Housing and anti discrimination laws. The buyers have the right to purchase property regardless what their background.

# Moving Towards Closing

## LEARNING OBJECTIVES

Upon completion of this section, the student will be able to:

- Identify common obstacles to getting transactions closed
- Discuss the escrow process and the ways agents are involved.

The final days and weeks prior to closing can be a stressful period for both buyer and seller. Buyers can have second thoughts at the prospect of taking on such a large debt. Or, they may worry that something will happen to prevent the sale.

### **The Closing Date**

The closing date was written on the purchase and sale agreement. The date is usually written "on or before" and then a date. Often transactions do not close on the date that is written on the agreement.

*What are reasons for a transaction not closing on the dates agreed upon?*

### **Clearing Clouds**

Often once the title report is ordered there may be clouds that could delay or stop a successful closing. The seller may have liens that they didn't acknowledge, the buyer may have a judgement that would attach to the property, the buyer may have an alias or a common name. Escrow and the title company work with the parties to clear up any challenges.

### **Escrow**

In Washington State transactions can be closed by an attorney, title company, or licensed escrow office. Escrow offices in Washington State are licensed under the Escrow Registration Act. Out of state escrow, if not licensed in Washington State cannot close transactions.

A broker can also close transactions if they meet certain guidelines but it is seldom or never done because of the huge liability. Escrow is a method of closing in which a neutral third party is authorized to coordinate the closing activities. The escrow agent holds monies and legal documents on behalf of the buyer and seller and handles them according to the escrow instructions to close the sale. The purchase and sale agreement serves as the primary escrow instruction for both the seller and the buyer. The escrow agent is not authorized to comply with any instruction or demands of any third person who is not a party to the escrow.

*Is the real estate agent a party to the escrow?*

## **The Escrow Process**

After a purchase and sale agreement is signed escrow is opened. The escrow agent gathers the information necessary to execute escrow instructions.

Preliminary title report is ordered which will identify the property and any clouds on the title.

The escrow agent holds monetary deposits for the buyers in a trust or escrow account. The real estate selling office often holds funds for the buyers in a trust account.

Buyer and seller deposit all pertinent documents with the escrow before the closing.

The escrow agent examines the title to determine whether there is marketable title and to identify liens that must be paid from closing funds.

The escrow agent prepares the documents, such as the deed for closing.

The escrow agent prepares the Closing Document and determines how the funds are allocated based on the agreements and the liens.

The escrow agent meets with the buyers and the sellers separately for signings.

After the lender funds the loan, the documents are recorded in the county, the documents are delivered, and the funds disbursed.

## **The CFPB Regulations 2015**

The Consumer Finance Protection Bureau (CFPB) regulations came into effect in October 2015. Basically the HUD1 statement will be called the CD or Closing Disclosure and the Good Faith Estimate (GFE) will be LE or Loan Estimates. There will be delays if there are last minute changes, lenders have to be more accurate, and lenders have to provide disclosure three days before closing.

Mortgages transactions can be very complex. Because the forms have been confusing and there have been two distinct bodies regulating the forms, Congress directed the Consumer Financial Protection Bureau to replace old truth in lending and Good Faith Estimate forms. All lenders will be required to give consumers the new Loan Estimate and the Closing Disclosure.

The Lender is to provide the consumer the Loan Estimate three business days after application. Studies by HUD have found that few consumers “shop” for a mortgage and most often apply and close with the first lender they met. The Loan Estimate will make it easier to compare loan programs. It will use clear language to help consumers understand the mortgage loan. The interest rate, monthly payments and total closing costs will be clearly presented making it easier to compare programs.

The lender is required to provide the borrower the Closing Document (used to be known as the HUD 1) at least three business days before closing on the Mortgage Loan. This additional time will allow borrowers to compare the final terms and costs to the terms and costs the received in the estimate. This will better equip them to raise any questions before they go to the closing table. According to the Consumer Financial Protection Bureau, the new mortgage disclosure will not necessarily delay closings.

If there are significant changes to the loan prior to closing, the borrower will have an additional three day review. This will occur only if:

1. The Annual Percentage rate increases by more 1/8% for a fixed rate loan or 1/4% for an adjustable loan. Lenders have been required to provide a three day review for these changes since 2009!

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2. A prepayment penalty is added making it expensive to refinance or sell.
3. The basic loan product changes, such as a switch from fixed rate to adjustable interest rate or to a loan with interest only payments.

There are many circumstances that do not require a new three day review. They can include, for example, if a buyer finds a problem on the final walkthrough like a broken refrigerator even if they require seller credits to the buyer.

Also, most changes to payments including the amount of real estate commission, taxes and utilities proration and the amount paid into escrow. Typos found at the closing table will not require an additional three day review.

There is more information on the changes at [consumerfinance.gov](http://consumerfinance.gov)

### **Pass the Pen**

There are three times when the buyers need to sign another addendum because of changes because of the home inspection. The seller may agree to include something or pay off something not originally agreed to in the original purchase and sale agreement. Real estate agents negotiate the purchase and sales agreement. Escrow takes the information on the agreement to create the escrow instructions. Escrow is a neutral third party that does not handle negotiations between the parties.

Real estate agents sometimes expect escrow at the closing table to draw up addendums or get signatures on changes on the purchase and sale agreement. It may seem convenient to let escrow handle those signatures while the parties are at the table. But, escrow is NOT licensed to practice real estate and cannot under their position to obtain those signatures.

### **Proof of Signatory Authority**

Often the signatory authority for property is not the actual owner. The escrow and title company can give a real estate broker guidance on who has the authority to sign for a real estate transaction.

1. Power of attorney: the power of attorney document has language in it that must meet certain requirements. Escrow and title looks for the key word "sell, convey, borrow" to be in there. ALWAYS have the power of attorney sent to the escrow/title company ahead of time to be reviewed to be sure it will work. If it is a durable power of attorney and the person is incapacitated, the title company would need a form from the client's doctor in order to use it.
2. Trust: A copy of the trust originally formed would grant the powers per the RCW and list the powers the trustee has and who they are, or whether there is a co-trustee, or alternatives
3. Corp: client will provide a copy of the articles of incorporation which will indicate powers and who has authority to sign.
4. LLC: the paper of formation of the LLC will designate who will sign, and manage the LLC. If not, then all parties of the LLC (that are listed on website) must sign, including their spouses, (even if spouses are not listed on LLC)
5. Guardian: State of Washington court system appoints a guardian. Guardian cannot do anything w/o petitioning the court for approval. Title company will then view court records for approval and note in title that so and so has right to sign for.....



# The Key To Buyers Quiz

*Put answers on the answer sheet following*

## Section 1 Introduction to Buyers

1. Buyers compare an average of \_\_\_\_\_ to \_\_\_\_\_ homes before making a decision.
2. Where do most buyers come from? Firm recognition or Open Houses? Circle correct answer.
3. The primary purpose a prospective purchaser calls is to \_\_\_\_\_ the property.
4. Over 50% of buyers use the \_\_\_\_\_ to look for real estate.
5. Past clients are often your \_\_\_\_\_ source of business.
6. When buyers read ads they look for \_\_\_\_\_ first.
7. The AIDA method to use to write ads means Attention, Interest, \_\_\_\_\_ and Action.
8. It is important that you create \_\_\_\_\_ - in the body of an ad.
9. The age of the house is the most important feature the buyer is looking for in an ad. True/False.
10. Open houses have shown to be the most effective way to find prospective buyers. True/ False.

## Section 2 Motivation of Buyers

11. No matter what the interest rate, there will always be \_\_\_\_\_ for homes in the marketplace.
12. Why did your last buyers decide to buy at this time?
13. How did they choose you as their agent?

Name three reasons why a buyer purchases real estate.

- 14.
- 15.
- 16.

Name 4 fears that a buyer has when making the decision to purchase a home.

- 17.
- 18.
- 19.
- 20.

21. Your only product as a real estate agent is \_\_\_\_\_.
22. Advise \_\_\_\_\_.
23. Inform \_\_\_\_\_.
24. Make timely \_\_\_\_\_.

Name 5 different types of home buyers.

- 25.
- 26.
- 27.
- 28.
- 29.

Write 5 questions to ask buyers to evaluate their needs.

- 30.
- 31.
- 32.
- 33.
- 34.

### **Section 3 Agency Law**

35. If you are the listing agent can you also represent the buyer?

36. An agent is presumed to be the \_\_\_\_\_ agent when working with a buyer.

37. The agency relationship starts when a broker provides \_\_\_\_\_ to a principal.

38. A buyer's agent CANNOT waive the duty to be loyal. True/False.

39. The buyer's agent must advise the seller to seek expert \_\_\_\_\_.

40. A broker can act as a dual agent with the \_\_\_\_\_ consent of both parties.

41. In a transactions in which different brokers affiliated with the same broker represent different parties, the broker is a \_\_\_\_\_ agent.

42. After the agency relationship ends, the broker owes no further duties except to account for all \_\_\_\_\_.

43. The Payment of compensation does \_\_\_\_\_ necessarily establish an agency relationship.

44. A principal is not \_\_\_\_\_ for an error by an agent unless the principal participated in the error.

45. A dual agent may continue to market property whil a sale is \_\_\_\_\_.

### **Section 4 Qualifying Buyers**

46. It is important to refer buyers to \_\_\_\_\_ - to have them professionally Pre-qualified.

47. There are \_\_\_\_\_ of loan programs out there in the industry.

A lender is looking at three aspects of the income. They include:

- 48.
- 49.
- 50.

51. A lender typically must evaluate the debt and credit history of the borrower for the past \_\_\_\_\_ years.

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52. FNMA stands for \_\_\_\_\_.
53. Most lenders use \_\_\_\_\_ established by FNMA.
54. Ratios are used to analyze the relationship between the borrowers income and loan payment. True/False.
55. PITI stands for \_\_\_\_\_.
56. The Housing Expense ratio that FNMA uses as a guideline is \_\_\_\_\_ %.
57. The Debt to Income ratio the lender uses is \_\_\_\_\_ %.
58. There are hundreds of loan programs available to purchasers of real property. True/ False.
59. It is good practice that once your buyers have been pre-qualified, then stick to those limits. True/ False.
60. In the active market in the Puget Sound region, there is often little room for negotiations because the average sale to list price is very close. True/ False.

## Section 5 Showing Properties

61. Buyers complain that agents do not show them properties that \_\_\_\_\_.
62. Don't \_\_\_\_\_ the house before you show it.
63. Keep buyers together when showing a house. True/ False.
64. The official valuation of real property for tax purposes is called an \_\_\_\_\_.
65. An \_\_\_\_\_ is one person's paid opinion of a property's value on that day.
66. Appraisers in Washington State have to have a license. True/ False.
67. A CMA stands for \_\_\_\_\_.
68. An opinion of the current market value of a property from an agent is called \_\_\_\_\_.
69. A tree is a natural attachment. True/ False.
70. A man – made attachment is called a \_\_\_\_\_.
71. The method of attachment is one of the \_\_\_\_\_ tests.
72. Can an item be a fixture and change to personal property and back again. Think about the kitchen sink. Yes/ No.
73. Are the rose bushes considered attachments and stay with the real property? Yes/ No

## Section 6 Contracts

Name the 5 essential elements for a real estate contract to be valid.

74.

75.

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- 76.
- 77.
- 78.

79.. Some real estate agents use buyer contracts. True/ False.

Name the 10 critical elements on a purchase and sale agreement.

- 79.
- 80.
- 81.
- 82.
- 83.
- 84.
- 85.
- 86.
- 87.
- 88.

89. Use \_\_\_\_\_ to make any written changes to the offer.

90. Always suggest to a buyer to pay for a professional \_\_\_\_\_.

### **Section 7 Misrepresentation and Disclosure**

91. \_\_\_\_\_ fraud is when an agent intentionally misrepresents a material fact concerning a transaction.

92. The Civil Rights act was passed in what year? \_\_\_\_\_

The seven protected classes under the Federal Fair Housing Act of the civil rights are:

- 93.
- 94.
- 95.
- 96.
- 97.
- 98.
- 99.

100. The Washington State Human Rights Commission administers the Washington Law against Discrimination. True/False

## Answer Sheet... Key to Buyers

1		36		71	
2		37		72	
3		38		73	
4		39		74	
5		40		75	
6		41		76	
7		42		77	
8		43		78	
9		44		79	
10		45		80	
11		46		81	
12		47		82	
13		48		83	
14		49		84	
15		50		85	
16		51		86	
17		52		87	
18		53		88	
19		54		89	
20		55		90	
21		56		91	
22		57		92	
23		58		93	
24		59		94	
25		60		95	
26		61		96	
27		62		97	
28		63		98	
29		64		99	
30		65		100	
31		66			
32		67			
33		68			
34		69			
35		70			

I attest that I have read the materials and have answered the questions.

**Date Course Started** \_\_\_\_\_ **Date Course Completed** \_\_\_\_\_  
**Print Name** \_\_\_\_\_ **Company** \_\_\_\_\_ **Signature** \_\_\_\_\_

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## Mandatory Evaluation

**Did you read the material in the booklet on this date? YES / NO**

Did you complete the quiz for the course? YES / NO

Did you fill out and sign this form? YES / NO

Did you attach the answer sheet for the quiz? YES / NO

Scan the answer sheets and this evaluation.

Why did you choose to take this course? Topic? Time? Cost? Ease? Other?

A "clock hour" is 50 minutes. A 7.5 hour class should take about 6 hrs 15 min.

How long did it take you to complete the course? \_\_\_\_\_

Will the material you learned improve your performance?	
Were the course materials easy to follow?	
Were the course materials relevant to your profession?	
Were your objectives met by attending the class?	
Was the course material interesting?	

What are 3 things that you learned from the course?

1.

2.

3.

Would you take another correspondence course from Professional Direction? Yes/ No

Name of Class		<b>Key to Buyers</b>	
Print Name		Signature	
Company		Address	
		home _____ or work _____ check one	
City / Zip Code		Phone	
Email			
License Renewal Date		Date(s) Class taken	

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