

Disclosure Regarding Real Estate Agency Relationships – Lease Transactions



Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of agency relationship you have with that licensee. A real estate transaction includes the lease of any real estate consisting of not less than 1 or not more than 4 residential dwelling units.

(1) An agent providing services under any service provision agreement owes, at a minimum, the following *duties* to the client:

- (a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.
- (b) The performance of the terms of the service provision agreement.
- (c) Loyalty to the interest of the client.
- (d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.
- (e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent. **A real estate licensee does not act as an attorney, tax advisor, surveyor, appraiser, environmental expert, or structural or mechanical engineer and you should contact professionals on these matters.**
- (f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.
- (g) Confidentiality of all information obtained within the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following *services* to his or her client:

- (a) When the real estate broker or real estate salesperson is representing a lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.
- (b) Acceptance of delivery and presentation of offers and counteroffers to lease the client's property or the property the client seeks to lease.
- (c) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a lease agreement is executed by all parties and all contingencies are satisfied or waived.

Michigan law requires real estate licensees who are acting as agents of landlords or tenants to advise the potential landlords or tenants with whom they work of the nature of their agency relationship.

LANDLORD'S AGENTS

A landlord's agent, under a listing agreement with the landlord, acts solely on behalf of the landlord. A landlord can authorize a landlord's agent to work with subagents, tenant's agents and/or transaction coordinators. A subagent of the landlord is one who has agreed to work with the listing agent, and who, like the listing agent, acts solely on behalf of the landlord. Landlord's agents and their subagents will disclose to the landlord known information about the tenant which may be used to the benefit of the landlord.

Individual services may be waived by the landlord through execution of a limited service agreement. Only those services set forth in paragraph (2)(b) and (c) above may be waived by the execution of a limited service agreement.

TENANT’S AGENTS

A tenant’s agent, under a tenant’s agency agreement with the tenant, acts solely on behalf of the tenant. A subagent of the tenant is one who has agreed to work with the tenant’s agent with who, like the tenant’s agent, acts solely on behalf of the tenant. Tenant’s agents and their subagents will disclose to the tenant known information about the landlord which may be used to benefit the tenant.

Individual services may be waived by the tenant through execution of a limited service agreement. Only those services set forth in paragraph (2)(b) and (c) above may be waived by the execution of a limited service agreement.

DUAL AGENTS

A real estate licensee can be the agent of both the landlord and the tenant in a transaction, but only with the knowledge and informed consent, in writing, of both the landlord and the tenant.

In such a dual agency situation, the licensee will not be able to disclose all known information to either the landlord or the tenant. As a dual agent, the licensee will not be able to provide the full range of fiduciary duties to the landlord or the tenant.

The obligations of a dual agent are subject to any specific provisions set forth in any agreement between the dual agent, the landlord and the tenant.

TRANSACTION COORDINATOR

A transaction coordinator is a licensee who is not acting as an agent of either the landlord or the tenant, yet is providing services to complete a real estate transaction. The transaction coordinator is not an agent for either party and therefore owes no fiduciary duty to either party.

DESIGNATED AGENCY

A tenant or landlord with a designated agency agreement is represented only by agents specifically named in the agreement. Any agents of the firm not named in the agreement do not represent the tenant or landlord. The named “designated” agent acts solely on behalf of his or her client and may only share confidential information about the client with the agent’s supervisory broker who is also named in the agreement. Other agents in the firm have no duties to the tenant or landlord and may act solely on behalf of another party in the transaction.

LICENSEE DISCLOSURE (Check one)

I hereby disclose that the agency status of the licensee named below is:

- _____ Landlord’s agent
- _____ Landlord’s agent – limited service agreement
- _____ Tenant’s agent
- _____ Tenant’s agent – limited service agreement
- _____ Dual agent
- _____ Transaction coordinator (**A licensee who is not acting as an agent of either the landlord or the tenant.**)
- _____ None of the above

AFFILIATED LICENSEE DISCLOSURE (Check one)

- _____ Check here if acting as a designated agent. Only the licensee’s broker and a named supervisor broker have the same agency relationship as the licensee named below. If the other party in a transaction is represented by an affiliated licensee, then the licensee’s broker and all named supervisory brokers shall be considered disclosed consensual dual agents.
- _____ Check here if not acting as a designated agent. All affiliated licensees have the same agency relationship as the licensee named below.

Further, this form was provided to the tenant or landlord before disclosure of any confidential information.

Licensee Date

Licensee Date

ACKNOWLEDGMENT

By signing below, the parties acknowledge that they have received and read the information in this agency disclosure statement and acknowledge that this form was provided to them before the disclosure of any confidential information. **THIS IS NOT A CONTRACT.**

The undersigned ____ DOES ____ DOES NOT have an agency relationship with any other real estate licensee. If another agency relationship exists, the undersigned is represented as ____ LANDLORD ____ TENANT.

Potential Tenant/Landlord (circle one)

Date

Potential Tenant/Landlord (circle one)

Date

Disclaimer: This form is provided as a service of Michigan REALTORS®. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. Michigan REALTORS® is not responsible for use or misuse of the form, for misrepresentation, or for warranties made in connection with the form.