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**4u2**<sup>LLC</sup> Presents

# The Buyer's Guide

A "Must Have" Publication for Home Buyers!

## How are selling agents and buyer's agents different?

The first thing to remember is that Wisconsin law does not allow real estate agents to be adversarial toward the seller or the buyer. They are legally required to treat all parties fairly.

If you work with a selling agent and there is no contract between you and the agent, you are not the agent's client. You will, however, receive a Broker Disclosure to Customers before the agent may negotiate on your behalf. That disclosure statement lists the fair treatment duties the selling agent owes to you, and indicates that the selling agent is either an agent of the seller or an agent of the listing broker (subagency). The selling agent will show you properties you are interested in seeing, get more information about properties of interest, and draft the purchase contract as you direct. The selling agent must provide you with information about known or potential property defects, and help you identify situations when you should consult a professional, such as a home inspector or building contractor, to help you evaluate the condition of the property, or an attorney or accountant to give you legal or tax advice.

**In Wisconsin, a real estate buyer can choose to work with either a selling agent (sometimes also referred to as a subagent or a co-broke agent) or a buyer's agent. Either way, your agent is a specially trained professional, licensed by the state of Wisconsin, who is obligated by law to treat all parties to a real estate transaction fairly.**

If you work with a buyer's agent, you and the buyer's agent will sign a WB-36 Buyer Agency Agreement, which includes mandatory Broker Disclosure to Clients language. This disclosure lists the fair treatment duties owed by all agents to all parties and the duties the agent owes to you as the client. You are the buyer's agent's client and the buyer's agent receives a fee when you find a property and negotiate a purchase contract in accordance with your buyer agency agreement. You have the right to negotiate the fee with the buyer's agent. You may authorize payment of the fee in whole or in part by the listing broker or the seller whenever possible in a given transaction, but you generally are responsible to pay any fee not paid in this manner. A buyer's agent helps you negotiate for beneficial contract terms and provides valuable information and advice to you throughout the transaction. A buyer's agent owes you the fair treatment duties owed to all parties, plus the higher level of client fiduciary duties.

## What are the advantages of working with a Buyer's Agent?

Despite what some people may think, a buyer's agent doesn't rush in and browbeat the seller into submission. The buyer's agent represents the interests of the buyer, but also must know how to work constructively with the listing agent so that the parties are satisfied with the transaction: the seller sells and the buyer buys. Acting in an adversarial way is not the most effective way to represent a buyer.

## A buyer's agent can:

- Recommend or suggest an offering price or give an opinion about whether a particular house is priced too high or too low.
- Structure the offer and draft offer provisions with the buyer's best interest in mind.
- Recommend and assist the buyer with negotiation strategies for the best price and beneficial terms.
- Research and disclose information about a property's history, title and liens so the buyer can make a better-informed decision. The amount of optional investigation and research that a buyer's agent may do for a buyer will vary from agent to agent.
- Give a negative opinion or critique of a seller's property beyond just disclosing defects.
- Give information and advice within the scope of the agent's expertise as a licensed real estate agent.

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