

Questions	Common Law Agency	Designated Agency
What are the differences between dual agency with limitations and transaction brokerage?	None, in common law agency. This occurs when the brokerage represents both parties to a transaction. In both dual agency and transaction brokerage the brokerage or its industry members must treat both parties in an evenhanded, objective and impartial manner. You cannot use discretion or judgment that benefits one client over the other client.	Transaction brokerage in a designated agency brokerage only refers to the same individual representing the buyer and seller. Transaction brokerage occurs when the same industry member represents both parties to the transaction. Both clients must be treated in an even handed, objective and impartial manner. You cannot use discretion or judgment that benefits of one client over the other.
What change in representative capacity do I offer my clients to resolve the conflict?	Client(s) will make informed decision(s) at the time of the conflict: <ul style="list-style-type: none"> - Client(s) can agree to dual agency with limitations - Client(s) sign <i>Dual Agency with Limitations Agreement</i> - Transaction brokerage will replace dual agency October 1, 2008. 	Client(s) will make informed decision(s) at the time of the conflict: <ul style="list-style-type: none"> - Transaction brokerage for designated brokerages became available on March 1, 2008. - Clients agree to transaction brokerage - Clients sign a <i>Transaction Brokerage Agreement</i> (for use with exclusive designated brokerages)
What happens if the parties do not agree to enter into transaction brokerage?	If either client does not agree to enter into transaction brokerage, there are a number of options; <ul style="list-style-type: none"> -Clients may reach their own agreement regarding representation -If not, the brokerage will need to determine which party was the first to enter into a client (agency) relationship with the brokerage. The brokerage will continue to represent the first client and the other party will be offered a choice of options: <ul style="list-style-type: none"> - the brokerage may offer to refer the other client to another brokerage for representation, - or the brokerage may offer the client customer status (non-agency representation). In that case, the party would sign a <i>Customer Status Acknowledgement</i>; 	If either client does not agree to enter into transaction brokerage, there are a number of options; <ul style="list-style-type: none"> -Clients may reach their own agreement regarding representation -If not, the brokerage will need to determine which party was the first to enter into a client (agency) relationship with the brokerage. The brokerage will continue to represent the first client and the other party will be offered a choice of options: <ul style="list-style-type: none"> - the brokerage may offer to refer the other client to another designated agency in the same brokerage, - the brokerage may offer to refer the other client to another brokerage for representation, - or the brokerage may offer the client customer status (non-agency representation). In that case, the party would sign a <i>Customer Status Acknowledgement</i>.
When will these changes happen?	Brokerages currently operate under common law agency. The concept of transaction brokerage will replace dual agency with limitations on October 1, 2008.	Brokerages may choose to operate as designated agency brokerages as of March 1, 2008. They may also offer transaction brokerage for designated agency brokerages as of March 1, 2008.

<p>What forms do I use for which type of brokerage?</p>	<p>The following forms are for common law brokerages:</p> <ul style="list-style-type: none"> - <i>Agency Relationships Guide</i> - <i>Exclusive Seller Brokerage Agreement</i> - <i>Exclusive Buyer Brokerage Agreement</i> - <i>Transaction Brokerage Agreement</i> (for use with exclusive brokerage agreements) 	<p>The following forms are for designated agency brokerages. <i>Note:</i> In designated agency written service agreements are mandatory.</p> <ul style="list-style-type: none"> - <i>Agency Relationships Guide</i> - <i>Exclusive Seller Designated Brokerage Agreement</i> - <i>Exclusive Buyer Designated Brokerage Agreement</i> - <i>Transaction Brokerage Agreement</i> (for use with exclusive designated brokerage agreements)
<p>When do I get the Dual Agency with Limitations or Transaction Brokerage forms signed?</p>	<p>After showing a property listed with your brokerage to a buyer client and the buyer expresses an interest in the property, the industry member should discuss the conflict of representation. If the buyer consents to dual agency or transaction brokerage then they would complete the form (see below) before writing an offer. The consent of the seller is then sought prior to presentation of the buyer's offer.</p> <p>The current form that buyers and sellers would sign is the <i>Dual Agency with Limitations Agreement</i>. After October 1, 2008 this form will be replaced with the <i>Transaction Brokerage Agreement</i> (for use with exclusive brokerage agreements).</p>	<p>After showing a property listed by you to a buyer client and the buyer expresses an interest in the property, the industry member should discuss the conflict of representation. If the buyer consents to transaction brokerage then they would complete the form before writing an offer. The consent of the seller is then sought prior to presentation of the buyer's offer.</p> <p>The form that buyers and sellers would sign is the <i>Transaction Brokerage Agreement</i> (for use with exclusive designated brokerage agreements).</p>
<p>How was agency affected by the Rules changes on October 1, 2006?</p>	<p>The new Rules reflected the common law requirements for industry members.</p>	<p>See the section below.</p>
<p>Which Rules will be affected by designated agency and transaction brokerage?</p>	<p>Part 2 – Industry Standards of Practice, Division 1: Standards of Conduct for All Industry Members (<i>Real Estate Act</i> Rules sections 41- 46; Division 2: Real estate Brokerage Standards (sections 47-63). <i>Note:</i> Transaction brokerage procedures for common law brokerages will be effective Oct. 1, 2008 to replace section 59 concerning dual agency with limitations.</p>	<p>Part 2 – Industry Standards of Practice, Division 1: Standards of Conduct for All Industry members (<i>Real Estate Act</i> Rules sections 41-46; Division 2: Real estate Brokerage Standards (sections 47-63). <i>Note:</i> Designated agency and transaction brokerage procedures for designated agency brokerages came into effect March 1, 2008 when section 58.1 came into effect.</p>
<p>Who signs the Transaction Brokerage Agreement for the Brokerage when one industry member represents both the buyer and seller in the same real estate trade?</p>	<p>In common law agency the industry member represents the brokerage. The contractual relationship is with the brokerage as well as the agency relationship.</p>	<p>In designated agency, the industry member can sign for the brokerage. The brokerage policy and procedures manual should have a clause allowing for this to occur. Although the contractual relationship is still with the brokerage, the agency relationship is with the designated agent.</p>

<p>What does “facilitation services” mean?</p>	<p>It means services by which the interests of the buyer and seller are met in an even handed, objective and impartial manner without providing confidential advice, advocating on behalf of either the buyer or seller, or using discretion or judgment that benefits the buyer or seller to the prejudice of the other. However, the industry member may facilitate for the mutual interests of the buyer and the seller in the transaction.</p>	<p>It means services by which the interests of the buyer and seller are met in an even handed, objective and impartial manner without providing confidential advice, advocating on behalf of either the buyer or seller, or using discretion or judgment that benefits the buyer or seller to the prejudice of the other. However, the industry member may facilitate for the mutual interests of the buyer and the seller in the transaction.</p>
<p>What are some examples of “facilitation services”?</p>	<p>Facilitation services include:</p> <ul style="list-style-type: none"> - provide real estate statistics and other information through listing services or other local databases; -assist the buyer and seller in negotiating a mutually acceptable agreement - provide standard form agreements of purchase and sale, lease and other relevant documents, - prepare documents with the instructions of the client(s), - provide the names of real estate appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers and the like, but not recommend any particular professional, - present in a timely manner, all offers and counter-offers to and from the client(s) regardless of whether the property is already the subject of a contract, - convey to the client(s) in a timely manner all information that either wishes to have communicated to the other, - keep the client(s) informed regarding the progress of the transaction, and -comply with the <i>Real Estate Act</i> and Rules. 	<p>Facilitation services include:</p> <ul style="list-style-type: none"> -assist the buyer and seller in negotiating a mutually acceptable agreement - provide real estate statistics and other information through listing services or other local databases, - provide standard form agreements of purchase and sale, lease and other relevant documents, - prepare documents with the instructions of the client(s), - provide the names of real estate appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers and the like, but not recommend any particular professional, - present in a timely manner, all offers and counter-offers to and from the client(s) regardless of whether the property is already the subject of a contract, - convey to the client(s) in a timely manner all information that either wishes to have communicated to the other, - keep the client(s) informed regarding the progress of the transaction, and -comply with the <i>Real Estate Act</i> and Rules.
<p>In Transaction Brokerage, can I still sell my listings to my buyers (double-end the transaction)?</p>	<p>Yes. Transaction brokerage in common law occurs when the same brokerage represents the buyer and seller in the same transaction. Therefore, this would be the case if the same industry member is working with the seller and the buyer in the same transaction. This option is allowed and is explained in the terms of the <i>Exclusive Seller Agreement</i> and <i>Exclusive Buyer Brokerage Agreement</i>.</p>	<p>Yes. Transaction Brokerage in designated agency occurs when the same industry member represents both the buyer and seller in the same transaction. This option is allowed and is explained in the terms of the <i>Exclusive Seller Designated Brokerage Agreement</i> and <i>Exclusive Buyer Designated Brokerage Agreement</i>.</p>