

# Of course, Toronto and Greater Vancouver Agents Keep Clients' Best Interests at Heart. Here's Why...

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Everywhere in Canada, from isolated rural areas to small towns and big cities like Toronto and Vancouver, Canadians depend on their real estate agents to act in their best interests.

“Real estate is a provincial responsibility so in Ontario and B.C., the Real Estate Council of Ontario (RECO) and Real Estate Council of British Columbia (RECBC) oversee the industry and regulate and licence brokers and real estate agents,” says Pierre Leduc, media relations, Canadian Real Estate Association, Ottawa.

So what do REW readers really need to know about agent/client relationships and their agents' legal obligation to act in their best interests in Toronto and Vancouver?

“Agents have to put their clients' best interests, goals and needs first while using their expertise and experience to inform and advise the clients,” says RECBC's executive officer Erin Seeley. “Ultimately, the clients decide what's in their best interests and make the final decisions.”

Naturally, agents have to abide by the parameters set out in their contracts with clients,

whether it's the preparation and marketing of a listing for a seller or finding and disclosing relevant listing information to a buyer. Standard contracts and agreements are available through the association in Ontario, and agents and their clients need to ensure any changes are carefully discussed and explained before they're added to the agreement. Be aware that the changes may be legally binding only if they're agreed to and acknowledged by both parties with either handwritten or electronic signatures.

Doing what's in the clients' best interests means acting on their instructions, but only if those instructions are "lawful". For example, if the client's instructions imply illegal activities, such as money laundering, agents are legally obligated not to act on them. In Toronto and Vancouver, high-end luxury homes are an appealing asset for individuals and companies looking to launder and invest large sums of dirty cash. As a result, agents must watch for red flags such as all cash and unfinanced purchases, private lending, unusual interest rates and transactions involving faceless corporations, homemakers and students. It's part of the job description and a legal obligation.

"It's imperative that your agents be aware of the laws that apply to them, particularly around very topical issues, such as money laundering, in order to protect the public and their licenses," says Seeley.

By law, agents must also provide transparent communication and respect client confidentiality, both of which will affect everything from the success of the buying/selling process to the consumer's final decision.

"A broker or salesperson representing a seller or buyer can negotiate on behalf of their party; but the representative can't disclose certain elements, such as their motivation to buy or sell, without express consent," says Joseph Richer, registrar, RECO.

In Ontario, if more than one offer is received, the seller's representative has to disclose the number of competing offers on a property to all buyers who have submitted a written offer without revealing the substance of the competing offers. Any agent that tries to get around this by "dropping hints" is risking disciplinary action. Conversely, in B.C., sellers decide whether they want to tell buyers and their agents about the number of offers submitted or the offers' terms.

When clients require specific tax or legal advice, agents should ask clients to consult with experts, such as accountants or lawyers rather than risk overstepping their knowledge or authority. Agents can certainly leverage their networks and provide referrals to lawyers and accountants just as they would recommend mortgage brokers, contractors, cleaners, decluttering professionals and stagers.

As professionals, agents value their reputations and refer the experts and service providers they know and trust to deliver quality. However, if they're also earning referral and recommendation fees, they have a vested interest and in Ontario and B.C., they need to inform clients in writing before accepting cash, gifts or any form of financial compensation.

While many of the rules and regulations are relatively similar in Ontario and B.C., there is one significant difference when it comes to multiple representation, also known as dual agency, when the agent and/or broker represents the buyer and seller.

In Ontario, dual agency is perfectly legal with the written consent of the buyer and seller, but the government is currently considering changes after consulting with the public. In Ontario, the debate regarding the extent to which a single agent can be loyal and fair to two clients with opposing goals continues.

Notably, B.C. banned dual agency representation in 2018, except in very limited circumstances, for example, in extremely remote regions with a very limited number of available agents. It was decided that in most circumstances, a single agent couldn't equitably act in the best interests of both the buyer and seller.

In Toronto and Vancouver, consumers can rest assured their real estate professionals are acting in their best interests, because as much as agents are committed to doing what's right, it's also legally and ethically required in Ontario and B.C.

Kara Kurylłowicz

Kara Kurylłowicz is a Toronto-based writer with 30 years of experience writing and editing for a wide range of magazines, websites and corporate clients. She has a long-term interest in real estate, as a journalist, homeowner and landlord with investment properties. She is fascinated by the Greater Toronto Area real estate market and is equally interested in how the Toronto market affects seasonal and second homes.