

Resolving Conflicts of Interest Between Clients: Understanding Your Options

BC Financial Services Authority

is the legislated regulatory agency that works to ensure real estate professionals have the skills and knowledge to provide you with a high standard of service. All real estate professionals must follow rules that help protect consumers, like you. We're here to help you understand your rights as a real estate consumer.

Keep this information page for your reference.

You are receiving this form because there is a conflict between your interests and the interests of another of your real estate professional's clients.

As a client, you must make a choice about how to proceed in this situation. This form is intended to help you understand your options. **You are strongly encouraged to read this entire document and consider getting independent professional advice before making a decision.**

WHAT IS A CONFLICT OF INTEREST BETWEEN CLIENTS?

Real estate professionals have a duty to act in their clients' best interests. Conflicts of interest between clients of the same real estate professional can happen when, for example:

- One client wishes to make an offer on another client's property;
- Two or more clients are interested in making an offer on the same property; or
- One client wishes to rent another client's property.

In situations like these, a real estate professional cannot continue to represent both clients—because when clients' interests conflict, it becomes impossible for a real estate professional to act in the best interests of both clients.

For example, sellers want the maximum price for their properties, while buyers want to pay the lowest possible price.

HOW CONFLICTS BETWEEN CLIENTS CAN BE RESOLVED

When your interests come into conflict with the interests of another client in the same transaction, your real estate professional must either:

- A. Release both clients.
- B. Release one client ("the RELEASED CLIENT") while continuing to represent the other client ("the CONTINUING CLIENT") using the **Agreement Regarding Conflict of Interest Between Clients**.

In most situations, it is likely that there will be many real estate professionals available to provide independent representation to consumers in real estate transactions. If the property is remote and underserved by real estate professionals, your real estate professional must explore the possibility of dual agency and then provide you with the **Understand the Risks of Dual Agency** form, which explains this kind of representation.

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AGREEMENT REGARDING CONFLICT OF INTEREST BETWEEN CLIENTS

Your real estate professional may already have discussed with you how they typically resolve conflicts of interest between clients, including any brokerage policies on the matter.

If your real estate professional has suggested releasing one client, you and the other client must agree. If both parties agree, the **Agreement Regarding Conflict of Interest Between Clients** must be signed to document the arrangement.

If either you or the other client decides not to sign the **Agreement Regarding Conflict of Interest Between Clients**, your real estate professional must release both parties in the transaction.

In the situation where you have been released as a client, you can be represented by a different real estate professional in the transaction. It is not recommended that you be unrepresented in a transaction as it exposes you to additional risks.

IF YOU ARE THE CONTINUING CLIENT, YOU WILL CONTINUE TO BE REPRESENTED BY YOUR REAL ESTATE PROFESSIONAL.

The real estate professional will continue to owe you special legal duties, including:

- Loyalty. They will act only in your best interests.
- Avoiding conflicts of interest. They must avoid any situation that would affect their duty to act in your best interests.
- Confidentiality. They must not reveal your private information without your permission, even after your relationship ends. That includes:
 - your reasons for buying, selling or leasing
 - your minimum/maximum price
 - any preferred terms and conditions you may want to include in a contract.
- Full disclosure. They must tell you everything they know that might influence your decision in a transaction.

However, your real estate professional cannot disclose to you any of the confidential information they received from the Released Client while they were representing that client, such as:

- their reasons for buying, selling or leasing
- their minimum/maximum price
- their preferred contract terms and conditions.

IF YOU ARE THE RELEASED CLIENT, YOU WILL NO LONGER BE REPRESENTED BY YOUR REAL ESTATE PROFESSIONAL IN THIS TRANSACTION.

Your former real estate professional will no longer be able to give you advice or negotiate on your behalf in this transaction. Your former real estate professional **will no longer** owe you special legal duties, including:

- Loyalty.
- Avoiding conflicts of interest.
- Full disclosure.

However, your former real estate professional must keep confidential the information you may have shared with them while you were being represented, such as:

- your reasons for buying, selling or leasing
- your minimum/maximum price
- any preferred terms and conditions you may want to include in a contract.

Carefully consider the services that you would receive as a continuing client or as a released client and ask your real estate professional about anything that is not clear before signing the **Agreement Regarding Conflict of Interest Between Clients**.

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INSTRUCTIONS FOR REAL ESTATE PROFESSIONAL

If all parties agree to the terms proposed in the following agreement, promptly submit the completed, signed and dated agreement to your brokerage.

If one or more clients do not agree to the terms of the agreement, you must stop acting for all clients. You are encouraged to refer each client to another real estate professional who can represent their interests in the transaction.

This is an agreement made in compliance with section 65 of the Real Estate Services Rules. For this agreement to take effect it must be completed and signed by all parties.

PARTIES: (PLEASE PRINT)

Real Estate Professional

Date

Continuing Client

Released Client

The Continuing Client is the:

- Seller
- Potential buyer
- Lessor/landlord
- Lessee/tenant
- Assignor
- Potential assignee
- Other (describe:) _____

The Released Client is the:

- Seller
- Potential buyer
- Lessor/landlord
- Lessee/tenant
- Assignor
- Potential assignee
- Other (describe:) _____

Of the property located at: _____

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BACKGROUND

1. The Real Estate Professional is separately representing the Continuing Client and the Released Client, who have conflicting interests in respect of a real estate transaction or potential transaction involving a property located at the address indicated above (the "Transaction").
 2. The Real Estate Professional cannot represent both the Continuing Client and the Released Client in the Transaction as to do so would amount to "dual agency", which is prohibited by Section 63 of the Rules made under the *Real Estate Services Act*.
 3. The Real Estate Professional proposes to stop representing the Released Client in respect of the Transaction and to continue representing the Continuing Client in respect of the Transaction.
- b. owing the Continuing Client the following special legal duties: loyalty, full disclosure, and the duty to avoid conflicts.
 2. The Real Estate Professional will no longer be representing the Released Client in respect of the Transaction. This means that:
 - a. the Real Estate Professional will not give the Released Client advice in the Transaction, or negotiate on the Released Client's behalf in the Transaction; and
 - b. in the Transaction, the Real Estate Professional will not owe the Released Client the following special legal duties: loyalty, full disclosure, and the duty to avoid conflicts.
 3. The Real Estate Professional will maintain the confidentiality of any information that was disclosed by the Released Client to the Real Estate Professional in the course of the Real Estate Professional's representation of the Released Client ("Previous Confidential Information"), unless lawfully disclosed.

The Released Client and the Continuing Client acknowledge and agree that:

1. The Real Estate Professional has disclosed that there is a conflict between the Continuing Client and the Released Client as follows: (select one)
- Potential buyer is interested in purchasing seller's property
 - Two separate potential buyers are interested in purchasing the same property
 - Tenant is interested in leasing the landlord's property
 - Two separate existing clients wish to enter into an assignment agreement together
 - Other: (describe)

The Real Estate Professional will continue to represent the Continuing Client in respect of the Transaction, including providing services such as:

- a. giving the Continuing Client advice in the Transaction, and negotiating on the Continuing Client's behalf in the Transaction; and

4. Even if the Previous Confidential Information would be relevant to the Continuing Client in the Transaction, the Real Estate Professional:
 - a. is prohibited from disclosing the Previous Confidential Information to the Continuing Client; and
 - b. the advice and information the Real Estate Professional may provide to the Continuing Client may be limited due to the Real Estate Professional's ongoing duty not to disclose the Previous Confidential Information.

The Real Estate Professional has advised the Released Client and the Continuing Client to seek independent professional advice in respect of the Transaction.

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AGREEMENT REGARDING CONFLICT OF INTEREST BETWEEN CLIENTS

You are strongly advised to read this entire document and seek independent professional advice before signing this agreement. If you agree to the terms of this agreement, complete and sign as either the Continuing Client or Released Client.

REAL ESTATE PROFESSIONAL:

Name (please print)

Team name and members, if applicable. *The duties of a real estate professional as outlined in this form apply to all team members.*

SEAL

Signature

Date

CONTINUING CLIENT(S):

Name (please print)

SEAL

Signature

Date

Name (please print)

SEAL

Signature

Date

RELEASED CLIENT(S):

Name (please print)

SEAL

Signature

Date

Name (please print)

SEAL

Signature

Date

A copy of this disclosure and agreement is not required to be provided to BC Financial Services Authority unless it is specifically requested.