

# Common law agency

## FAQ about real estate teams

### Q: I am a broker, do I have to maintain a written list of teams and team members?

A: Yes, and it must be kept up to date and made available upon request by the Commission.

### Q: If I have a licensed assistant, do we have to advertise as a team?

A: No. A team is two or more industry members who:

1. work together on a regular basis to provide real estate brokerage services;
2. represent themselves to the public as being part of one entity; and
3. designate themselves by a collective name, such as team or group.

### Q: I am part of a team. What do I need to disclose to buyers and sellers?

A: You need to disclose to buyers and sellers, in writing, the name of your team and the names of all team members.

### Q: What do I write in the agency section of the agreement of purchase and sale?

A: You write in your brokerage name, your name and your team's name

#### Agreement of purchase and sale, large team

##### AGENCY RELATIONSHIP

14. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled "Working With A REALTOR\*", published by the Nova Scotia Association of REALTORS\* and acknowledge and confirm as follows:

(a) The Seller  does  does not have an agency relationship with

Deep Harbour Realty  
Brokerage  
and Sam Harrison  
Brokerage Representative

(b) The Buyer  does  does not have an agency relationship with

Red Hot Real Estate Ltd.  
Brokerage  
and Marie Jones Westridge Real Estate Team  
Brokerage Representative

### Q: I am not on a team, what do I need to know about co-advertising services or properties for sale?

A: Industry members do not have to be a team to co-advertise; there are no special requirements for industry members at a common law brokerage who want to co-advertise services or properties. As with all advertising, make sure you have your broker review and approve the ads.

### Q: I want to advertise as being part of a team, but also on my own. Is this okay?

A: No. You are on team, or you are an individual, you cannot be both.

### Q: Another industry member and I want to advertise our services jointly to save money. Does this make us a team?

A: No. Not unless your advertisement makes you and the other industry member appear

1. to be working together to provide real estate services,
2. to be a single entity, and
3. under a collective name, like team or group.

### Q: My team represents a buyer. I prepared the agreement of purchase and sale, but someone else on my team is finalizing the offer with the buyer, and presenting the offer to the seller's brokerage. Whose name do I write in the agency relationship disclosure section of the agreement of purchase and sale?

A: You write the team name, the brokerage name, and the name of the industry member finalizing the offer with the buyer and presenting the offer to seller's brokerage.

### Q: If I have an unlicensed assistant, are we a team and can we advertise as a team?

A: No. Unlicensed assistants are not counted as team members. A team must be two or more industry members. Unlicensed assistants cannot advertise directly or indirectly in real estate.

**Q: My for-sale sign has my brokerage name and my team name on it. Can I add a rider to the sign that has my name on it?**

A: Yes.

**Q: Why is there a difference between what teams are required to do under common law and under designated agency?**

A: Under common law, agency is with the brokerage. All industry members licensed with the brokerage represent the clients of brokerage and are deemed to know all relevant information about those clients. For example, when any industry member at a common law brokerage takes a listing, every industry member at the brokerage is immediately considered to be a representative of that seller and owes that seller undivided loyalty, advice and advocacy. This is why a common law brokerage that represents a buyer and a seller in a single transaction must limit their duties to each party, employing transaction brokerage or treating one party as a customer.

When it comes to teams under common law, team members can freely share information about brokerage clients amongst themselves, because industry members at common law brokerages have always been free to share information about brokerage clients.

Under designated agency, agency is with the designated agent specified in the brokerage agreement only, not the brokerage, and not with any other industry members licensed with the brokerage. Unlike common law, when any industry member at a designated agency brokerage takes a listing, only the industry member specified in the brokerage agreement as the designated agent represents the seller and owes that seller undivided loyalty, advice and advocacy. It is the brokerage's job to put policies and procedures in place to protect the confidential information of all brokerage clients and ensure the designated agent does not communicate any information prejudicial to the interests of clients to other industry members of the brokerage. This is why a designated agency brokerage can represent a buyer and a seller in a single transaction with full agency representation to both parties.

When it comes to teams under designated agency, team members must be specified as a designated agent on brokerage agreements, because industry members (designated agent) are prohibited from sharing client information with other industry members at the brokerage. If an industry member at a designated agency brokerage shares client information with another industry member at the brokerage who is not speci-

fied on the brokerage agreement as the designated agent, it violates the terms of the brokerage agreement and the agency relationship with the client. This is why all team members must be specified as the designated agent on designated brokerage agreements.