

Licensee Definitions and Relationships **September 15, 2013**

At the risk of putting you back to sleep this Sunday morning I want to provide some public education concerning the practices and obligations of real estate licensees in the State of Alaska.

The term “Real Estate Licensee” has now been the statutory title of persons who practice real estate in Alaska for many years. The former term “Real Estate Agent” is not applicable in Alaska, although it is common throughout most of the United States.

Persons licensed to practice real estate in Alaska may be qualified under State Law as a Salesperson or Broker. Salesperson is the initial designation, and such a person can subsequently apply and be tested to qualify as a Broker. Since each office can have only one Broker responsible for the operations of any office, the other qualified Brokers in that office are ‘Associate Brokers’ under that Statute.

Persons designating themselves other than Salesperson, Broker or Associate Broker may well be liable for penalties under the Statute because the public is being misled.

Additional non-statutory titles may also be applicable to your real estate practitioner. However, these are not indications of their legal status to perform real estate duties. Indeed, any person practicing real estate duties without a State of Alaska license is in violation of the law.

So what is a “Realtor”? Simply, a real estate licensee who is a member of the National Association of Realtors, a trade organization. Some licensees choose to belong, and some do not. A licensee who is not a member of the N.A.R. cannot designate themselves as a Realtor.

Further, licensees may obtain specific education, outside of statutory requirements, that entitle them to letters after their name, just like a PhD or B.A. from a University. Designations such as GRI, CRS and others indicate education pursued, levels of achievement reached, or membership in a non-statutory body. They have nothing to do with the licensee’s authorization to practice real estate, but may suggest enhanced skills as a result of additional education or experience.

Why is this important? Because, from time to time, a practitioner will be tempted to mislead you, the customer, as regards their level of rank in the business. You most certainly should inquire about the qualifications and experience of your chosen real estate practitioner at the outset. You don’t want a G.P. doctor performing your heart surgery, do you?

Licensee Relationships: In our rather radical Alaska Statutes the nature of your relationship to the Licensee is complicated. For this reason, the State of Alaska has produced a Consumer Pamphlet (not actually a pamphlet) comprising 2 pages, of information about the choices you face. It’s a bit like being married, single, just friends or living together. However, it is essential for you to understand the boxes checked when you are buying or selling real estate.

There are 3 relationships you may have, by Statute, with your Licensee. You may be receiving “Specific Assistance without Representation”, you may be “Represented” as a buyer or seller, or

you may authorize the Licensee to act in a “Neutral” capacity for buyer and seller at the same time.

While it is not my intention to re-define the Statute here, perhaps I can simplify the situation so that you know what you are doing before you start that relationship. Actually, by Statute, the Licensee must explain it to you, give you the pamphlet, and identify that relationship before they start working with you.

The ‘rule of thumb’ is to know this one thing. If your real estate licensee is checking any box on the pamphlet other than “Representing the Buyer” or “Representing the Seller” then you, as the buyer or seller, are being assisted and NOT represented.

Assistance is quite different to Representation. If you are merely being assisted, then the licensee does not owe you the obligations set forth on page 1 of the Consumer Pamphlet “Duties owed by a Licensee when Representing a Party”. A licensee “assisting” you will deal with you honestly and fairly but not fight for you in the same way as if they were your advocate in the transaction.

Such matters may not seem important to you when you are just so excited to be buying or selling your home – but they can certainly affect the outcome. If you want to be fully represented you cannot be forced to accept mere ‘assistance’. Tell this to your licensee. Arrangements can always be made accordingly.

If you would like a copy of the Consumer Pamphlet and Neutral Licensee Waiver to study, simply request by email at windsor@alaska.net, or ask your Realtor.

Dear Dave: We’ve been getting various letters/surveys since selling our house. One we received was from the Municipality (Anchorage). Are we obliged to complete these surveys?

Answer: There are no surveys that you are obliged to complete. In particular, you have no duty to provide the Municipality of Anchorage with information about your home sale, or your home purchase. The Municipality has already been provided with the details they need to record the change of ownership. The survey request is for data, such as the price paid, that will help them calculate property taxes more accurately.

Alaska has privacy laws that allow you to keep such information confidential. Whilst it is true that the Municipality would be enabled to distribute taxes more evenly if they knew all the sales data across the city, most homeowners cherish their privacy on such matters. That is why the publicly recorded Deed in a real estate transaction reads “for one dollar and other good and valuable consideration” instead of the actual sale price.