



Dual Agency Disclosure and Consent
Hawaii Association of REALTORS® Standard Form
Revised For Release



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A-1 PURPOSE:

HAWAII ADMINISTRATIVE RULES TITLE 16 CHAPTER 99 REQUIRES THAT A WRITTEN DISCLOSURE OF CERTAIN AGENCY RELATIONSHIPS BE MADE PRIOR TO ENTERING INTO ANY WRITTEN CONTRACT. THIS DUAL AGENCY DISCLOSURE AND CONSENT SHALL BE SIGNED BY CONSUMER BEFORE SIGNING A WRITTEN CONTRACT. It is possible that the brokerage firm and its agents may represent multiple clients with competing interests due to the number of real estate licensees that may be affiliated with the firm and the number of clients that they may represent.

A-2 CREATION OF THE CLIENT/AGENT RELATIONSHIP:

The client/agent relationship may be created in several ways. The preferred method is by express written agreement prior to the agent performing the duties associated with agency. However, it is also possible that an agency relationship, specifically a dual agency relationship may be created without the knowledge of all those concerned. Examples would be; two or more agents of the same firm represent multiple buyers seeking similar properties, thereby creating a conflict of interests, without the knowledge of the client and/or agent. Similarly, two sellers of similar properties are competing for the same buyer without the knowledge of the clients and/or agents.

A-3 DUAL AGENCY/POTENTIAL CONFLICTS:

A dual agency relationship exists when a brokerage firm represents two or more principals with conflicting interests. These conflicts may or may not be known to individual agents of the brokerage firm. A dual agency relationship may exist when one or more of the following occur:

- a) The brokerage firm represents both the buyer and seller in a transaction.
- b) The brokerage firm represents multiple buyers who are searching for similar properties.
- c) The brokerage firm represents sellers with similar properties.
- d) The brokerage firm has represented the buyer or the seller as a previous client and the brokerage firm and all its licensees owe a fiduciary duty of confidentiality.

Standard dual agency practices require that the brokerage firm and all of its agents must remain neutral in all negotiations and must not advance the interest of one party over the other.

A-4 DISCLOSURE:

The brokerage firm and all its agents owe fiduciary duties to the clients. These duties include the duty of (1) loyalty, (2) obedience (to all lawful directives), (3) disclosure of material facts known to the agent that may influence the client's decision in the specific matter, (4) skill, care and diligence in the performance of services, (5) accounting and (6) confidentiality of any personal information that an agent may learn about their client.

A-5 BROKERAGE FIRM AND LICENSEE'S OBLIGATIONS:

Buyers and sellers understand that, in a dual agency relationship, where both parties are represented by the same brokerage firm, services which can be provided by the brokerage firm and its agents, under Hawaii law, are limited. The brokerage firm can only act to facilitate the transaction. The agents remain obligated by law to disclose any material facts concerning the property known to them personally.

A-6 SERVICES THAT THE BROKERAGE FIRM AND ITS LICENSEES CAN PROVIDE FOR THE PARTIES:

- 1. Treat all clients honestly.
- 2. Provide information to the clients about the property and the community.
- 3. Respond to questions from the clients about the property.
- 4. Disclose to the clients, pursuant to Hawaii law, all material facts about the property known to the brokerage firm.
- 5. Disclose to the seller the financial qualifications which have been provided with the permission of the buyer.
- 6. Explain real estate forms, terms and procedures.
- 7. The listing agent at the seller's direction may continue to market the property and solicit additional offers.
- 8. The buyer's agent at the buyer's direction may continue to search for and prepare offers on other properties.
- 9. Assist in arranging property inspections.
- 10. Explain closing costs and procedures.
- 11. Assist clients in comparing financial alternatives.
- 12. Provide information about comparable properties so that clients can make an informed decision as to what price to offer or accept.

BUYER'S INITIALS & DATE

SELLER'S INITIALS & DATE



- 13. Work diligently to facilitate the sale and advise clients when experts (legal, survey, accounting, inspections etc.) should be retained.
- 14. Prepare contracts that will include the standard provisions and disclosure for buyer and sellers.

A-7 SERVICES THAT THE BROKERAGE FIRM AND ITS LICENSEES CANNOT PROVIDE:

- 1. Cannot disclose confidential information that the brokerage firm or its agents may know about the client (e.g. motivation to buy/sell, price/terms, negotiating strategy, etc.) without express written permission of the client.
- 2. Cannot disclose the price the client will accept without the express written permission of the client.
- 3. Cannot recommend or suggest a price the buyer should offer or pay for the property.
- 4. Cannot recommend or suggest a price the seller should accept or counter for the Property.

A-3 POTENTIAL CONFLICTS:

- (a) Brokerage Firm may have agreements to represent other Buyers, whether such representation arises prior to, during, or after the termination of this Contract. Buyer agrees, consents, and waives any objections to such representations. Brokerage Firm may have agreements with other Sellers to market and sell their property. Seller agrees, consents and waives any objections should Brokerage Firm list and show similar properties as Seller's property

NOTICE: It is strongly recommended that the parties seek legal counsel prior to signing this Dual Agency Consent Addendum.

ACKNOWLEDGEMENT:

By signing below all signatories are acknowledging that they have read and understand this document. The parties understand and acknowledge the Standard Dual Agency representation of all parties by the brokerage firm and consent to the brokerage firm engaging in such Dual Agency. All parties are giving written consent and agree to the representation provided above. (Note: All clients with potential conflicts may not be known at the time of signing due to the potentially large number of clients being served by the brokerage firm.)

Buyer	Date	Seller	Date
Buyer	Date	Seller	Date
"BUYER"		"SELLER"	
By _____ Agent assisting Buyer	Date	By _____ Agent assisting Seller	Date
By _____ Principal Broker/Broker-In-Charge	Date	By _____ Principal Broker/Broker-In-Charge	Date

NOTE: THERE IS NO WARRANTY ON PLAIN LANGUAGE. An effort has been made to put this agreement into plain language. But there is no promise that it is in plain language. In legal terms, THERE IS NO WARRANTY, EXPRESSED OR IMPLIED, THAT THIS AGREEMENT COMPLIES WITH CHAPTER 487A OF THE HAWAII REVISED STATUTES. This means that the Hawaii Association of REALTORS® is not liable to any Buyer, Seller, or other person who uses this form for any damages or penalty because of any violation of Chapter 487A. People are cautioned to see their own attorneys about Chapter 487A (and other laws that may apply).