



What do REALTORS® need to do when selling their own home?

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QUESTION: My husband and I were have been talking about downsizing. A friend just called and asked if we might be willing to sell our house to her. She is not planning to hire a real estate agent. Are there any rules that apply when a licensed agent sells their own home? Can I help my friend fill out a written offer? Are there any disclosure requirements?

ANSWER: The Real Estate Commission's Agency Agreements and Disclosure rule (A.0104) states: "A broker who is selling property in which the broker has an ownership interest shall not undertake to represent a buyer of that property (except for sales of certain commercial real estate)." As the Real Estate Commission has written, this type of representation would create an obvious conflict of interest. To avoid any appearance of impropriety, you should encourage your friend, preferably in writing, to seek representation, either from an attorney or another licensee. However, if your friend decides to proceed without representation, you can proceed with selling your home to her if you follow certain guidelines.

First, you need to give her a Working With Real Estate Agents brochure. Under the rules, that delivery must occur at "first substantial contact" with a prospective buyer, and in no event later than three days from the date of first substantial contact. Be sure to check the box in the brochure indicating that you are representing the seller.

Second, although the license law and the Commission's rules do not require disclosure of your status as a licensed agent, Article 4 of the REALTOR® Code of Ethics does. It states: "In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative."

Third, as a seller of residential property, you have an obligation to deliver a Residential Property Disclosure Statement to the buyer. While you are permitted to check the "No Representation" boxes on that form, real estate licensees have disclosure obligations that exceed those of other sellers: licensees are required to disclose all material facts in any transaction in which they are involved, even their personal transactions (see also, Article 2 of the REALTOR® Code of Ethics). You should be sure to disclose all material facts to your buyer no later than the time an offer is made.

Finally, since you cannot represent the buyer in her purchase of your home, you cannot provide her with any sort of advice in her completion of an Offer to Purchase and Contract. At most, you can show your friend the blanks in the form that need to be filled in. If she asks for guidance, you should remind her to seek that guidance from an attorney or from another licensee.

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