Disclosure of the Risks of Dual Agency

A mortgage broker must give you this information before acting as a dual agent. You are getting this form because the broker who is helping you is also helping someone else in the same mortgage transaction. This is called "dual agency."

WHAT IS DUAL AGENCY?

Dual agency happens when one mortgage broker represents:

- Both the borrower and the lender as clients in the same mortgage transaction;
- Both the buyer and the seller of a mortgage in the same mortgage transaction; or
- Two or more borrowers or lenders who have conflicting interests in the same mortgage transaction.

DUAL AGENCY IS NOT ALLOWED IN BC IN MOST CASES

Dual agency presents significant risks to consumers. In most cases, mortgage brokers in BC are not allowed to represent more than one party in the same mortgage transaction. This is to avoid conflicts of interest.

However, there are two exceptions to this rule:

1. **Remote or underserved areas:** if the clients are in a remote location where there are not many mortgage brokers available and it is difficult for each party to find their own broker, one broker may be allowed to represent both sides.
2. **Related or affiliated:** if the clients are related parties or affiliated, one broker may be allowed to represent both sides.

In either case, the mortgage broker must clearly explain the risks to both clients and get their informed consent before proceeding.

YOU HAVE CHOICES

If either of the above exceptions apply to your situation, you can choose whether to agree to dual agency. If you say yes, the mortgage broker can represent both you and the other client. But this can only happen if both of you agree in writing.

If either of you say no, the mortgage broker must stop helping both of you with your mortgage transaction.

BCFSA strongly suggests you seek legal or other professional advice before deciding to enter into a dual agency agreement.

RISKS OF DUAL AGENCY

If you agree to dual agency, the mortgage broker cannot fully act in your best interest or give you the same level of advice and information they normally would. This is because they are working for both you and the other client at the same time.

Your mortgage broker's duties to you as a client change in dual agency.

Normally, your mortgage broker must:

- Be loyal to you and put your interests first.
- Try to avoid conflicts of interest.
- Tell you everything that could affect your decisions.
- Keep your personal and financial information private.

But in dual agency, the mortgage broker:

- Has limited responsibilities to both you and their other client(s).
- Cannot tell you everything they know if it would break the other client's confidentiality.
- Cannot share the other client's confidential information with you – or yours with them.

STATEMENT OF BROKERAGE

This is a required disclosure form in compliance with sections 77 or 78 of the Mortgage Services Rules.

The Principal Broker must complete this section before the consumer receives this disclosure, and they should refer to their brokerage's policies and procedures and the Mortgage Services Knowledge Base about the factors to consider

- ☐ I am satisfied that the criteria set out in the section 77(1) or 78(1) of the Rules are met in this case.
- ☐ I have included the required description of the reasons why the requirements for engaging in dual agency have been met in this case.

Describe in detail how the requirements for engaging in dual agency, as set out in section 77(1) or 78(1) of the Rules, are met in this situation:

I understand that this disclosure must be true, plain, and not misleading. I further understand that, under the Mortgage Services Act, it is misconduct to make (or allow to be made) a false or misleading statement in any record, which includes omitting authorized or required information. I further acknowledge that if there is any substantive change to the information provided, I will promptly disclose this change.

This disclosure is made in respect of a property located at:

Principal Broker Signature:

Date:

Brokerage:

STATEMENT OF BROKER

- ◯ I confirm that I have given the client(s) this disclosure form.
- ◯ I confirm that I will provide the client(s) with a Dual Agency Agreement.

I understand that this disclosure must be true, plain, and not misleading. I further understand that, under the Mortgage Services Act, it is misconduct to make (or allow to be made) a false or misleading statement in any record, which includes omitting authorized or required information. I further acknowledge that if there is any substantive change to the information provided, I will promptly disclose this change.

Mortgage Broker Name(s): ____________________ Date: ____________

Mortgage Broker(s) Signature: ____________________

CLIENT ACKNOWLEDGEMENT AND SIGNATURES

I acknowledge that I have received this information and disclosure form about the risks of entering into a dual agency agreement.

Client Name(s): ____________________ Date: ____________

Client Signature(s): ____________________

This disclosure was provided by:

(select option)

◯ Email ◯ In-person ◯ Other (describe): ____________________

IMPORTANT: The brokerage must provide a copy of this disclosure to the BC Financial Services Authority promptly after entering into a written agreement of dual agency. Send to dual-agency-disclosure@bcfsa.ca.

BC Financial Services Authority (BCFSA) is the legislated regulatory agency that works to ensure mortgage services licensees have the skills and knowledge to provide you with a high standard of service. All mortgage services licensees must follow rules that help protect consumers, like you. We are here to help you understand your rights. For additional information on mortgage services, or to ask us a question or file a complaint, visit us online at www.bcfsa.ca, email us at servicecentre@bcfsa.ca, or call us at 604 660 3555 or 1 866 206 3030. You can submit an anonymous tip through BCFSA's website.