

Double Ending / Multiple Representation is legal in Ontario.

Be aware of the consequences.



By Judy Faulkner, Broker of Record

Like many residents living in 'Old Ottawa' communities you haven't bought or sold a home in decades. You choose a Realtor who will help guide you through the complexities of selling in a hot market, and work in your best interest. You carefully select a local Realtor who has a great reputation and a finger on the pulse of the market.

Everything goes according to plan. The market does not disappoint and you expect to receive two offers. Your nervousness is calmed by the presence of your trusted Realtor.

One of the competing offers is coming from a client being represented by the same Brokerage as your Listing Realtor. After an awkward silence your Realtor explains that in this case the Brokerage has a conflict of interest and would no longer be able to represent your best interests. Is that okay with you?

What is double ending?

Most consumers are unaware that all Listing and Buyer Representation Agreements are with the Brokerage, not the individual Realtors (sales representatives/brokers) who work for the Brokerage. Double ending also known as multiple representation occurs when the Brokerage has two or more clients on the same transaction.

What are the consequences?

Inherently, a buyer's and seller's interests differ. Most obviously Buyers want to buy low and Sellers want to sell high. When the Brokerage represents both Buyer and Seller on a transaction the Realtors working for the Brokerage can not provide advice that would favour one client over the other. The Brokerage must remain impartial. This situation presents particular challenges for clients who wanted to benefit from the sage advice of their Realtor.

When is double ending/multiple representation permitted?

Multiple representation is legal in Ontario, providing both clients consent in writing. The listing and buyer representation agreements are provided to all Realtors by their governing body, the Ontario Real Estate Association (OREA). The pre-printed representation agreements contain a clause outlining the limitations placed on the Brokerage in the case of double ending/multiple representation. The significance of this clause is often overlooked or underestimated by consumers.

Until the late 1990s all Realtors represented the interests of sellers only. Buyers were not clients and Realtors could provide them with information, not advice. When the legislation changed allowing both buyers and sellers to be clients of the same Brokerage conflict of interest scenarios became rampant in the industry.

CBC's *Marketplace* 2017 investigation on double ending/multiple representation in the real estate industry shook public confidence and thrust the issue into the spotlight, sparking a much needed conversation regarding consumer protection.

Momentum from the public outcry is pressuring the Ontario government to remedy the problem. Seeking solutions, Faulkner Real Estate Ltd. was conceived in 2000 offering a business model to ensure sellers could receive representation without their Brokerage having a conflict of interest.
