

*From the desk of John Poletes B.A.S., LL.B.  
Barrister & Solicitor  
Suite 610, 161 Eglinton Avenue East  
Toronto, Ontario, M4P 1J5*

## **Dual Agency and You**

You are in the market to purchase a home and your realtor has been showing you properties to no avail. One morning you are taken down a tree lined street to the home of your dreams. You want to make an offer on the spot. Your realtor indicates that before an offer can be made, you need to sign an acknowledgement and consent for dual agency. You have heard this term before but what is it exactly?

Dual agency occurs when a realtor is acting for both the vendor and the purchaser in the same transaction. In this situation, dual agency has occurred because the realtor is showing you one of his own listings. The realtor is therefore also acting for the vendor.

What benefit is it to you to use the same realtor as the vendor? Generally speaking, there is no benefit at all. There is only the potential for one's interests to be compromised. The realtor is now in the position where they have knowledge of your maximum price, financing arrangements and other information that comprises your ability to negotiate price and terms.

When in a dual agency situation, buyers and sellers must understand that they

are on their own as to negotiating strategy, and must not expect the realtor to take a side or to give advice. Technically, the realtor ceases to be a fiduciary, and transforms to a deal facilitator. The realtor can no longer act as an advocate.

Dual agency is not a problem providing both seller and purchaser understand the role of the realtor in the particular transaction as deal facilitator. When you are in a dual agency situation, do not hesitate to rely on other professionals for advice.

In Ontario, agents are required to disclose to both the purchaser and vendor when they are acting as a dual agent. This involves following very strict disclosure procedures when acting for both parties. The Real Estate Council of Ontario Code of Ethics requires realtors to disclose for whom they act at the earliest possible opportunity, and are required to recommend that parties get independent legal advice prior to entering into a dual agency.

For more information about this or any other real estate law related topics please do not hesitate to contact John Poletes at 416-482-1902, or e-mail him at [john.poletes@bellnet.ca](mailto:john.poletes@bellnet.ca)