

## Consumer Information Statement. Real Estate Relationships in New Jersey

In New Jersey, real estate licensees are required to disclose how they intend to work with buyers and sellers in a real estate transaction. (In rental transactions the terms "buyers" and "sellers" should be read as "tenants" and "landlords" respectively.)

**1. AS A SELLER'S AGENT OR SUBAGENT, I, AS A LICENSEE, REPRESENT THE SELLER AND ALL MATERIAL INFORMATION SUPPLIED TO ME BY THE BUYER WILL BE TOLD TO THE SELLER.**

**2. AS A BUYER'S AGENT, I, AS A LICENSEE, REPRESENT THE BUYER AND ALL MATERIAL INFORMATION SUPPLIED TO ME BY THE SELLER WILL BE TOLD TO THE BUYER.**

**3. AS A DISCLOSED DUAL AGENT, I, AS A LICENSEE, REPRESENT BOTH PARTIES. HOWEVER, I MAY NOT WITHOUT EXPRESS PERMISSION, DISCLOSE THAT THE SELLER WILL ACCEPT A PRICE LESS THAN THE LISTING PRICE OR THAT THE BUYER WILL PAY A PRICE GREATER THAN THE OFFERED PRICE.**

**4. AS A TRANSACTION BROKER, I, AS A LICENSEE, DO NOT REPRESENT EITHER THE BUYER OR THE SELLER. ALL INFORMATION I ACQUIRE FROM ONE PARTY MAY BE TOLD TO THE OTHER PARTY.**

Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of business relationship you have with that licensee. There are four business relationships: (1) seller's agent; (2) buyer's agent; (3) disclosed dual agent; and (4) transaction broker. Each of these relationships imposes certain legal duties and responsibilities on the licensee as well as on the seller or buyer represented. These four relationships are defined in greater detail below. Please read carefully before making your choice.

**SELLER'S AGENT**-A seller's agent WORKS ONLY FOR THE SELLER and has legal obligations, called fiduciary duties to the seller. These include reasonable care, undivided loyalty, confidentiality and full disclosure. Seller's agents often work with buyers, but do not represent buyers. However, in working with buyers, a seller's agent must act honestly. In dealing with both parties, a seller's agent may not make any misrepresentation to either party on matters material to the transaction, such as the buyer's financial ability to pay, and must disclose defects of a material nature affecting the physical condition of the property which a reasonable inspection by a licensee would disclose. Seller's agents include all persons licensed with a brokerage firm which has been authorized through a listing contract to work as the seller's agent. In addition, other brokerage firms may accept an offer to work with the listing broker's firm as the seller's agents. In such cases, those firms and all persons licensed with such firms, are called "subagents". Sellers who do not desire to have their property marketed through subagents should so inform the seller's agent.

**BUYER'S AGENT**-A buyer's agent WORKS ONLY FOR THE BUYER. A buyer's agent has fiduciary duties to the buyer which include reasonable care, undivided loyalty, confidentiality and full disclosure. However, in dealing with seller, a buyer's agent must act honestly. In dealing with both parties, a buyer's agent may not make any misrepresentations on matters material to the transaction, such as buyer's financial ability to pay, and must disclose defects of a material nature affecting the physical condition of the property which a reasonable inspection by the licensee would disclose. A buyer wishing to be represented by a buyer's agent is advised to enter into a separate written buyer agency contract with the brokerage firm which is to work as their agent.

**DISCLOSED DUAL AGENT**.A disclosed dual agent WORKS FOR BOTH THE BUYER AND THE SELLER. To work as a dual agent, a firm must first obtain the informed written consent of the buyer and the seller. Therefore, before acting as a disclosed dual agent, brokerage firms must make

written disclosure to both parties. Disclosed dual agency is most likely to occur when a licensee with a real estate firm working as a buyer's agent shows the buyer properties owned by sellers for whom that firm is also working as a seller's agent or subagent. A real estate licensee working as a disclosed dual agent must carefully explain to each party that, in addition to working as their agent, their firm will also work as the agent for the other party. They must also explain what affect their working as a disclosed dual agent will have on the fiduciary duties their firm owes to the buyer and to the seller. When working as a disclosed dual agent, a brokerage firm must have the express permission of a party prior to disclosing confidential information to the other party. Such information includes the highest price a buyer can afford to pay and the lowest price a seller will accept and the parties' motivation to buy or sell. Remember, a brokerage firm acting as a disclosed dual agent will not be able to put one party's interests ahead of those of the other party and cannot advise or counsel either party on how to gain an advantage at the expense of the other party on the basis of confidential information obtained from or about the other party. If you decide to enter into an agency relationship with a firm which is to work as disclosed dual agent, you are advised to sign a written agreement with that firm.

**TRANSACTION BROKER** The New Jersey Real Estate Licensing Law does not require licensees to work in the capacity of an "agent" when providing brokerage services. A transaction broker works with a buyer or a seller or both in the sales transaction without representing anyone. A TRANSACTION BROKER DOES NOT PROMOTE THE INTERESTS OF ONE PARTY OVER THOSE OF THE OTHER PARTY TO THE TRANSACTION. Licensees with such a firm would be required to treat all parties honestly and to act in a competent manner, but they would not be required to keep confidential information. A transaction broker can locate qualified buyers for a seller or suitable properties for a buyer. They can then work with both parties in an effort to arrive at an agreement on the sale or rental of real estate and perform tasks to facilitate the closing of a transaction. A transaction broker primarily serves as a manager of the transaction, communicating information between the parties to assist them in arriving at a mutually acceptable agreement and in closing the transaction, but cannot advise or counsel either party on how to gain an advantage at the expense of the other party. Owners considering working with transaction brokers are advised to sign a written agreement with that firm which clearly states what services that firm will perform and how it will be paid. In addition, any transaction brokerage agreement with a seller or landlord should specifically state whether a notice on the property to be rented or sold will or will not be circulated in any Multiple Listing System(s) of which that firm is a member.

**FOR SELLERS AND LANDLORDS**-“By signing this CIS I acknowledge that I received this Statement from **Realmart Realty** prior to discussing my motivation to sell or lease or my desired selling or leasing price with one of its representatives.”

Signed (\*\*sign here\*\*)

X \_\_\_\_\_

**FOR BUYERS AND TENANTS**-“By signing this Consumer Information Statement, acknowledgement that I received this Statement from \_\_\_\_\_ prior to discussing my motivation or financial ability to buy or lease with one of its representatives.”

### DECLARATION OF BUSINESS RELATIONSHIP

I, \_\_\_\_\_, (name of licensee) as an authorized representative of **REALMART REALTY, LLC** intend, as of this time, to work with you as a:

<input type="checkbox"/> Sellers Agent	<input type="checkbox"/> Buyers Agent
<input type="checkbox"/> Dual Disc. Agent	<input checked="" type="checkbox"/> Transaction Broker

DATE \_\_\_\_\_/5/98 CIS (A)



*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION ON CIVIL RIGHTS  
P.O. Box 089  
Trenton, NJ 08625-0089

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*Governor*

KIM GUADAGNO  
*Lt. Governor*

JOHN J. HOFFMAN  
*Acting Attorney General*

CRAIG SASHIHARA  
*Director*

TO: Property Owners

FROM: John J. Hoffman, Acting Attorney General, State of New Jersey  
Craig Sashihara, Director, NJ Division on Civil Rights

DATE: August 2013

SUBJECT: Housing Discrimination Laws

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The New Jersey Real Estate Commission requires every licensed broker or salesperson with whom you list your property to give you a copy of this notice. The purpose is to help you comply with the New Jersey Law Against Discrimination (the "LAD") and federal laws prohibiting discrimination in the sale or rental of real property.

In New Jersey, it is illegal to discriminate against a prospective or current buyer or tenant because of race, creed, color, national origin, sex, gender identity or expression, marital status, civil union status, affectional or sexual orientation, familial status, actual or perceived physical or mental disability, ancestry, nationality, domestic partner status, or source of lawful income used for mortgage or rental payments. It is also illegal to place any advertisement or make any statements or utterances that express, directly or indirectly, any limitations to offer housing based on any of those characteristics.

State and federal fair housing laws apply to a wide range of activities such as advertising, selling, renting, leasing, subleasing, assigning and showing property (including open land). Here are some issues that come up frequently in enforcing the LAD:

- Discrimination based on "source of lawful income used for mortgage or rental payments," means, for example, that a landlord cannot reject a prospective tenant because he or she intends to rely on a Section 8 rental voucher, FEMA voucher issued to Superstorm Sandy victims, or other types of rent subsidy.
- A "No Pets" rule cannot be enforced to prevent a person with a disability from using a service animal such as a guide dog. A landlord may not charge a tenant with a disability an extra fee for keeping a service animal.
- Discrimination based on "familial status" prohibits discrimination against families with a child or children under 18 years old, and includes pregnant women.

- Landlords must permit a tenant with a disability, at that tenant's own expense, to make reasonable modifications to the premises if such modifications are needed to give the tenant full enjoyment of the premises.

**Penalites.** If you commit a discriminatory housing practice that violates the LAD, you may be subject to penalties not exceeding \$10,000 for a first violation, not exceeding \$25,000 for a second violation within five years of the first offense, and not exceeding \$50,000 for two or more violations within seven years.

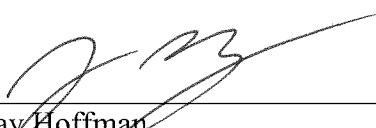
**Other remedies.** Victims of discrimination may recover economic damages related to the discrimination (such as having to pay higher rent for another unit) as well as damages for emotional distress, pain and humiliation. In more egregious cases, a victim may also recover punitive damages.

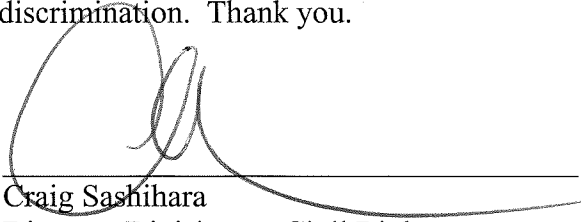
**Brokers.** The broker or salesperson with whom you list your property must transmit to you every written offer he/she receives on your property. Brokers and salespersons are licensed by the New Jersey Real Estate Commission and their activities are subject to the general real estate laws of the State and the Commission's own rules and regulations. The broker or salesperson must refuse your listing if you indicate an intent to discriminate based on any of the protected classes.

**Exemptions.** The sale or rental of property (including open land) whether for business or residential purposes, is covered by the LAD. In most cases, the following sales or rentals are exempt from the LAD<sup>1</sup>:

- Renting one apartment in a two-family dwelling if the owner lives in the other apartment.
- Renting a room or rooms in a one-family dwelling if the owner lives in the same dwelling.
- A religious organization can give preference to persons of the same religion when selling or renting real property.
- In certain types of housing designated for older persons, it is not unlawful to discriminate based on familial status.

For more information about the LAD and Fair Housing Amendments Act of 1988, or if you have other questions about discrimination in the sale or rental of real property, including how to report a complaint, please review our website [www.NJCivilRights.gov](http://www.NJCivilRights.gov) or call our Housing Hotline at (866) 405-3050. Please contact us if you would like the Division on Civil Rights to provide training on the subject of housing discrimination. Thank you.

  
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John Jay Hoffman  
Acting Attorney General

  
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Craig Sashihara  
Director, Division on Civil Rights

<sup>1</sup> Discrimination in connection with some of the transactions covered by these exemptions may nevertheless be prohibited under the *Federal Civil Rights Act of 1866*, 42 U.S.C. 1981, 1982.