

Property II Study Guide

Land Sale Contract

- Timetable
 - o Pre-Contract
 - o The Sales Contract
 - o The Closing (the Conveyance, the Deed)
 - o Post-closing: Financing (Mortgages etc.)
 - o Post-closing: Title
- PRE-CONTRACT ISSUES (Primarily Issues with Brokers)
 - o Sellers may and often do (but are not required to) engage an agent to assist in selling. These agents are generically called **Brokers**. Brokers are engaged to "list" the property and the terms of the contract with the broker is often delimited in the type of listing. **Brokers also may represent buyers.**
 - o Whoever they represent, brokers **Broker owes fiduciary duty** to adhere to high ethical and professional standards – loyalty and good faith
 - **Licari v. Blackwelder p463:** As fiduciaries, real estate brokers:
 - must place their client's interests above their own/no self dealing
 - Act in good faith
 - Disclose all information that is or may be material to client's rights/interests
 - Two real estate brokers associated with the listing agent on the Licari's property purchased the property and sold it for profit 6 days later.
 - o **Broker's duty to disclose information regarding the property:**
 - **General rule**—No duty to disclose
 - **Exception**—If the broker has knowledge of a latent defect in the property that could not be discovered by a buyer even in the exercise of due diligence. *Note, this is about actual knowledge, not what the broker "should have known."* Has more or less caused brokers to not seek out information about latent defects.
 - o **Types of brokers:**
 - *(Seller) Broker* – works for seller (must act in good faith. Disclose any information that buyer shares to seller)
 - *Buyer Broker* – works for buyer (broker has duty to disclose defects to buyer)
 - *Dual agents* – broker represent both buyer and seller
 - o **Types of listings** (i.e., terms of the contract with the broker: seller authorizes broker to locate a buyer on seller's behalf):
 - *Open:*
 - *Least protective*
 - *Seller retains right to sell property himself or can use another broker to avoid commission*
 - *Brokers earns commission only if first to find a buyer*
 - *Usually no termination date*
 - *Exclusive-agency:*
 - *Permits one broker to sell the property for a specified period of time*
 - *Earns commission if secures buyer or separate broker secures buyer*
 - *Do not have to compete with other brokers*
 - *Owner can directly sell the property and avoid commission*

Mortgage Broker Study Guide

Rachel S Tattersall



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