

CAPITOL ♦ TITLE

MD REAL ESTATE COMMISSION PROVIDES GUIDANCE TO AGENTS HOLDING OPEN HOUSE

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On February 7 the Maryland Real Estate Commission issued a communication providing clarification and guidance on the proper role of the agent while holding an open house. Some of the more significant aspects of the Commission's letter are the following:

- There is no distinction under agency law between the listing agent and any other agent affiliated with the listing broker who may be holding the open house. Any agent affiliated with the listing broker who holds an open house is there exclusively as the seller's agent and their duty of exclusive loyalty to the seller is not diminished because that agent is not the listing agent
- It is inappropriate for any agent holding an open house to make disparaging comments about the house in an effort to entice prospective purchasers who visit the house to look at other properties the agent may want to show them
- It is inappropriate for any agent holding an open house to have any substantive discussions at the open house with a prospective purchaser concerning other properties or the agent's retention as the buyer's agent to look at other properties. ANY SUBSTANTIVE DISCUSSIONS OF THIS NATURE MUST OCCUR AT A DIFFERENT TIME AND PLACE, by simply scheduling a time to meet the prospective purchasers at another location
- It is acceptable to take the sign-in sheet back to the office or another location to contact prospects
- Simple rule of agency is that you may ONLY represent the interests of the seller while holding an open house. A seller cannot legally consent to a written waiver of agency by the agent conducting the open house, which appears to be a growing practice by agents. Such a waiver is prohibited under Maryland law.

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