

A Reprint from *Tierra Grande*

Buyer Agency

Perspectives on

How do consumers and real estate agents perceive buyer agency? Has buyer agency had any impact on home prices or time on the market? Research sponsored by the Real Estate Center found that the perceptions of Texas licensees and consumers differ, and their perceptions do not always correspond with statistical evidence.



Buyer's Agent Bandwagon

The increasing use of buyer agency grew out of a 1980's reform effort that sought to clarify the agency relationship between real estate professionals and consumers. Traditionally, residential real estate agents established a fiduciary agency relationship with the sellers and then proceeded to list the property on the market.

Cooperating agents working with buyers were technically subagents of the listing broker and owed a fiduciary duty to the seller. However, buyers generally assumed erroneously that agents who showed them properties to purchase represented their interests. Adding to the confusion, some agents incorrectly gave the impression that they were representing the buyer when legally they were not.

To correct this, many state licensing agencies strengthened agency disclosure rules. The Texas Real Estate Commission (TREC) issued its first agency disclosure rules in 1989. Several revisions to TREC rules and regulations followed requiring written disclosures about agency representations and consumer choices about who a broker represented. The Texas Real Estate Licensing Act (TRELA) was amended in 1995 and mandated that real estate licensees make it clear to all parties whose interests they represent. Since TRELA was amended, most selling agents (rather than listing agents) have represented the buyer as a buyer's agent, thus removing the fiduciary duties to the seller.

By James Ford

Agency Understanding Limited

Survey results reveal that real estate professionals think consumers are confused about how agency works. Less than a third of agents (27.8 percent) believe buyers understand this concept “even moderately.” Similarly, brokers and agents think that consumers in general do not understand the concept of *designated intermediaries*, with 71.3 percent responding that consumers understand it “very little or not at all.”

Brokers and agents believe that consumers support buyer agency over the traditional model of seller subagency. More than nine out of ten (93 percent) believe that their buyer clients prefer the buyer agency model; less than a fifth (18.8 percent) indicate that their seller clients prefer the seller subagency role for selling agents who bring prospective buyers.

By law, licensed real estate agents are required to provide information to clients explaining the difference between buyer agency representation and seller agency representation. TREC

form “Information About Brokerage Services” may be used for this purpose. Its use is not mandatory, and licensees may use any format they wish to convey the information, but they must use the exact language, type size and so forth required by the statute.

Information Overload

While 44.6 percent of homebuyers surveyed stated they had received the “Information About Brokerage Services” statement, 13 percent did not remember receiving a copy. The remainder (42.4 percent) were uncertain if they received it or not, suggesting consumers may experience information overload during the homebuying process.

A small portion of recent buyers, however, admit their understanding of agency is limited. Only 24.7 percent said they do not understand (or understand “very little”) the difference between the terms *buyers’ agent* and *sellers’ subagent*.

Interestingly, survey results indicate a diversity of thought regarding written buyer-agency agreements with 34.6 percent of licensees responding they “only work with clients who sign the agreements.” Another 18.6 percent said that most clients “do not want to sign;” 10 percent are “not using the agreements,” and the balance say that “some sign and some do not.”

Among consumers, the majority (61.9 percent) say they signed a buyer agency agreement with their buyer’s agent. Only 22.6 percent did not sign, and 15.5 percent could not recall if they had signed or not. Of 52 respondents who

Licensee Perceptions of 1995 TREL A Amendment Effects

Effect	Agree Strongly	Agree Somewhat	Neutral	Disagree Somewhat	Disagree Strongly
	In Percent				
Amendment eliminated much consumer confusion regarding representation. (259 responses)	16.6	43.6	12.4	18.9	8.5
Buyers improved market power with buyer agents more clearly representing them. (259 responses)	26.6	42.1	11.2	15.4	4.6
Sellers lost market power now that agents working with buyers are no longer subagents. (260 responses)	3.1	14.6	10.4	33.1	38.8
While amendment changed agent disclosure, any other effects are too small to notice. (251 responses)	13.9	39.4	21.1	18.3	7.2
One effect of amendment has been to reduce selling price from what it otherwise might be. (253 responses)	1.2	7.1	13.0	31.6	47.0
One effect of amendment has been to reduce time on market from what it otherwise might be. (253 responses)	1.2	9.5	19.4	28.5	40.7

Source: Real Estate Center at Texas A&M University

did sign, 47 (90.4 percent) would still sign if they had to do it over again.

Power to Buyers

Consumers were asked whether the issue of representation is less confusing now than it was before the 1995 TRELA amendment. Of those buyers who had purchased a Texas home prior to January 1, 1996, the responses were evenly split between those who said that the issue is less confusing and those who felt it is “not less confusing” (37.8 percent each); 24.3 percent were not sure.

Texas brokers and agents licensed before the TRELA amendment regarding agency took effect generally believe the 1995 amendment somewhat reduced consumer confusion while improving the market power of buyers. The improvement in market power is not, however, perceived to be to the detriment of the seller.

Responses reveal that agents feel the amendment had no impact on selling price or time on the market (see table). However, these perceptions are not consistent with research findings. The results provide evidence that sale prices actually fell after the TRELA amendment by approximately 1.8 percent and that time on the market decreased by 18.7 percent.

Better Matchmakers

The research confirms agents’ perceptions that the market power of buyers improved but does not confirm agents’ perceptions regarding selling price and time on the market. Results suggest agents are better matchmakers under buyer agency, resulting in less time on the market. Buyers were able to negotiate better prices once buyer agency was implemented.

Various agency issues may have significant effects on the single-family residential housing market. Additional research may be warranted to analyze these effects on specific submarkets, such as the low-cost versus luxury housing segments.

This study shows that the 1995 TRELA amendment has been a modest success in terms of clarifying agency representation for Texas agents and brokers and in transferring some market power to buyers, thus making the market more efficient. A follow-up study examining how current buyer agency impacts the selling price and time on the market would help to clarify these issues. ■

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About the Surveys

Marketing research firm MarketStat collaborated with Dr. Ron Rutherford of the University of Texas at San Antonio to conduct a series of surveys of recent homebuyers and real estate brokers and agents in the Dallas-Fort Worth Metroplex. The researchers analyzed nearly 60,000 Metroplex home sales to determine the effects of the 1995 amendment to the Texas Real Estate Licensing Act (TRELA) on prices and time to sell.

A randomly chosen sample of 101 Dallas area homebuyers were contacted by telephone to survey their perceptions of various real estate agency issues. The typical respondent was an Anglo female age 30 to 45 with a college degree, who had purchased a home in the \$100,000 to \$149,000 range.

At the same time, an e-mail survey was sent to nearly 3,800 licensed Metroplex brokers and salespersons. Four hundred and forty-two valid responses were received, a response rate of 11.7 percent. The random sampling error was plus or minus 4.7 percent at the 95 percent confidence level.

Respondents generally matched the profile of the Metroplex broker-agent population. The typical respondent was an Anglo female salesperson age 50 or older, college educated, licensed 11 or more years and with a sales volume of \$3 million to \$6 million in 2001.

The impact of the 1995 TRELA amendment was examined using 59,599 completed single-family residential sales in the Fort Worth metropolitan area for Jan. 1, 1994, through Oct. 31, 1998, controlling for location, physical characteristics and market conditions. This period was chosen to reflect market conditions both immediately before and after the effective date of the amendment. Average time on the market was 83 days, and the average real sales price was \$105,000.



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