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RED Waiver Form– When Do You Use It

Information by RSAR and reviewed by NVAR Legal Counsel

[In 2007](#), the Nevada Real Estate Division created two forms for a seller to sign that waives the duty of a listing agent to present offers in the case of a limited service brokerage. In a limited service brokerage, a seller is represented by a licensee, but has elected to handle some aspects of the transaction himself. This may include the negotiation of the sale of the property without the assistance of the listing agent. Of the duties listed in the Duties Owed Form, the duty to present offers is the only duty that can be waived.

NRS 645.254 was amended to state: Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction. A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

4. Shall present all offers made to or by the client as soon as is practicable, **unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;**

The waiver form referred to in this section of the NRS is the Real Estate Division Waiver Form 636 and should be used only for its intended purpose.

Purpose of Waiver Form 636

The “Waiver Form” ([Form 636](#)) explains to a seller that the **ONLY** duty a real estate agent can waive under the Duties Owed by a Nevada State Licensee is the presentation of offers to the seller. The seller signs this form in acknowledgement that the listing agent will perform **ALL** other duties as required by state law. Once the seller has signed this form, they are agreeing to have offers presented directly to them and the seller will be the responsible party for fulfilling the terms of the agreement. **By the seller signing this form, he is waiving the listing agent’s duty to deliver offers and counter offers; answer questions regarding an offer or counter offer; and assist in preparing, negotiating and communicating offers and counter offers.** With Form 636, the seller is releasing the listing agent from **the duties** in connection with the presentation of the offer.

Going hand-in-hand with Form 636 is the [Authorization to Negotiate \(Form 637\)](#), also signed by the seller. This form is to be provided to a buyer’s agent. It gives the buyer’s agent authorization to present any offers directly to the seller. If you are a member of the Northern Nevada Regional MLS, the rules require that all limited service listings be identified within the MLS system and a copy of the signed Authorization to Negotiate (Form 637) be uploaded in the Associated Documents section of Paragon for that listing.

Combined, these two forms simply state that any offers are to be presented directly to the seller by a buyer’s agent, and the seller is responsible for negotiations. It also serves to notify cooperating agents that they are authorized to present the offers directly to the seller and by doing so no implied agency relationship is created between the buyer’s agent and the seller.

Form 636 and Form 637 have no other purpose and should not be used in any other situations.

Conclusion

Agents should clearly understand the intent and use of the Real Estate Division Waiver Form (Form 636) and the Authorization to Negotiate (Form 637). Use for a purpose other than what was intended may have serious unintended consequences. If you are still unclear on how and when to use this form, go to your broker. If your broker is unsure seek legal advice before putting yourself or your client at risk.