What is the difference between exclusive agency, exclusive right and open listing agreements?

A: A listing agreement is a written employment arrangement between you and your real estate broker regarding real estate services. On entering into a listing agreement, you retain and authorize your broker and their agents to diligently perform real estate related services — to buy, lease, sell or borrow — on your behalf in exchange for payment of a fee.

Listing agreements, regardless or the type, fall into one of two general categories:

- exclusive; or
- open.

An exclusive listing requires your agent to use diligence in their efforts to locate a property buyer, tenant or mortgage for you. An exclusive listing requires an expiration date of the employment.

For buying and selling real estate, two types of exclusive listing agreements exist:

- an **exclusive agency** listing for a seller or buyer; and
- an **exclusive right-to-sell/buy** listing.

Both types of exclusive listings establish the broker and their agents as your only real estate representatives. However, these variations are distinguished by whether or not your broker is entitled to a fee when, by your sole efforts, you sell your property or locate one to buy.

Under an *exclusive agency* listing fee provision, the broker does not earn a fee when you, acting alone and independently of any broker, accomplish the objective of the employment, i.e., selling the listed property or locating and buying the property sought.

Conversely, under the fee provision in an *exclusive right-to-sell/buy* agreement, your broker earns a fee no matter who produces the buyer or locates the property sought under the listing during the listing period. This is the case whether you, your broker or another broker produces a buyer or locates a property.

An *open listing* allows you to market your own property while employing one or more brokers to locate buyers and sell the property. You may enter into open listings with as many brokers as you want to without becoming obligated to pay more than one fee, if any.

Thus, under an open listing, you compete against your brokers and your brokers compete among themselves to be the first to locate a buyer. If you locate a buyer first, you are not obligated to pay a fee under any open listing you have entered into. Thus, an open listing does not grant exclusive rights to a broker and their agents to be your sole representative.

A broker fee under an open listing to sell real estate is due a broker only when they procure a ready, willing and able buyer and present you with an offer containing:

- terms substantially the same as the terms you seek under the listing; or
- other terms offered by a buyer and accepted by you.

Your Name/Team Name

CalBRE Lic#
555.555.5555
youremail@mail.com
yourwebsite.com

Brkr Name
Brkr Lic No

YourCompanyLogo