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To: Massachusetts State Senator Robert O'Leary  
By email: [ROleary@senate.state.ma.us](mailto:ROleary@senate.state.ma.us)

Dear Senator O'Leary:

Congratulations on your very thoughtful amendment to the Massachusetts dual agency statute.

The American Homeowners Alliance has long been opposed to all legislative proposals to introduce 'Designated Agency' into the real estate marketplace. We consider such disguised dual agency to be anti-consumer and not in the best interest of homeowners.

Under the common law in effect in Massachusetts, homeowners used to be able to rely on loyal advocacy, confidentiality and representation from the *entire* firm when they listed their property for sale with any real estate agency. Neither buyer nor seller needed to worry about whether confidential information might be disclosed inadvertently to an opposing party by agents who shared fax machines, sat at desks within earshot of one another, and often may have socialized together when not working.

The new statute turned this fiduciary benefit around 180 degrees so that the Seller is able to count on *one person*, a listing agent, to be on his/her side. All the other agents in the firm the Seller retains can legally be representing Buyers, negotiating for a lower not higher price, and working against the Seller. It's tantamount to saying "Come list your property with one of our agents so all the rest of our agents can work against you". But it's never presented that way. There is seller confusion, and no real informed consent.

Designated Agency is simply a disguise for Undisclosed Dual Agency. It is a deceptive practice very similar to the conflicts of interest and self-dealing recently exposed in the investment-banking and insurance-brokerage sectors.

Your amendment will re-emphasize the common law duties of fiduciaries, making sure that all real estate agents operating under a Massachusetts license will meet, and not evade, their well-established professional duty to see clients actually understand all conflicts of interest, before any consent.

Sincerely,

Bruce Hahn, President