



Consumer Federation of America

1620 Eye Street, NW, Suite 200, Washington, DC 20006

www.consumerfed.org

Honorable Massachusetts State Senator Robert O'Leary
State House
Room 416-A
Boston, MA 02133

March 13, 2006

By email: ROleary@senate.state.ma.us

Dear Senator O'Leary:

Consumer Federation of America, a pro-consumer association of some three hundred non-profit organizations formed in 1968 to advance consumer interests through research, advocacy and education, supports your constructive legislation on dual agency for real estate agents (Senate Bill No. 627) which remedies last year's change to dual agency law.

Consumer Federation of America has opposed efforts to conceal dual agency and its inherent conflict of interests from consumers under the guise of so-called designated agency. Consumers need to be prominently informed in a timely manner that the real estate agent represents both the buyer and the seller. Both home buyers and home sellers have the potential to lose under this conflict of interest.

Under current Massachusetts common law, real estate agencies listing a property for sale can also have agents which represent buyers without either the seller or the buyer understanding the implications of this tension. Although real estate agencies maintain that they can protect the fiduciary duties of two contradictory parties, the reality is that there is no practical manner to prevent confidential information from being revealed in offices that share telecommunications, facsimile machines, computers and ancillary office equipment. Consumers deserve undivided loyalty from the agents they retain and to whom they pay commissions on their largest financial asset, their homes.

The change proposed in Senate Bill 627 helps to resolve this inherent conflict with timely and comprehensive disclosure to the consumers. Rather than allow the confusion and conflicts that designated agency intentionally clouds, the proposed legislative change clarifies the implications of dual agency to the consumer in a timely manner so that they can act according to their interests with full knowledge of the relationships of all the involved parties.

Sincerely,

Stephen Brobeck
Executive Director