

# Standards of Practice



The Windermere Real Estate *Standards of Practice* embody the company's commitment to the highest standard of service to clients and to respectful relationships with all agents. Windermere expects you to set personal business standards that project the highest level of professionalism.

- I. Client and business relationships are the foundation of our business and success.
  - A. Client interests always come before self-interest.
  - B. Understand and observe all duties, obligations and limitations in your business relationships.
  - C. Keep in touch regularly and expeditiously.
  - D. Educate your client about agency law and how our business works. Get agreements in writing when required and/or possible. In the absence of a written agency agreement, the client's choice of agent will be respected. The client should have the freedom to choose.
  - E. Ask direct questions about possible relationships with another agent. It is in everyone's interest to actively encourage and support client loyalty to an agent.
  - F. Respect legitimate requests by clients for termination of a working relationship, whether or not a written agreement exists. Termination should be in writing.
- II. Agent relationships are the foundation of a successful transaction. Respect your colleagues.
  - A. Honesty is owed to all parties, and timely delivery of information is important, especially written/contractual paperwork. Observe the duties, obligations and limitations of the client in your interaction with other agents.
  - B. Respect all contractual relationships—listing, purchase and sale, and buyer agent agreements—and do not interfere with them directly or indirectly. Follow MLS rules and NAR Code of Ethics (articles 15 & 16).
  - C. Whenever possible make presentations face-to-face with other agents and/or their clients. Review *Windermere Guidelines for Presentation*.
- III. Communicate when mistakes and misunderstandings occur.
  - A. Recognize that there are different communication styles and that all experiences have more than one viewpoint. Talk to the other agent involved as soon as possible, pinpoint the facts and issues, and work toward a viable solution. If you make a mistake, try to rectify it.
  - B. Seek assistance from management when necessary, and discuss the dispute and details of the transaction only with those directly involved.
  - C. Only involve the client when necessary. Always remember client confidentiality.

(continued)

# Standards of Practice



- IV.** Recognize the limits of your own knowledge and expertise. Always ask yourself: “What is best for the client?” and act accordingly. Follow the *Windermere Guidelines for Expertise*.
- V.** Keep yourself fully informed on real estate issues and changes, such as license law, legal and local issues, finance, current trends, MLS rules and regulations, and the current NAR Code of Ethics.
- VI.** Respect and follow fair housing laws, and provide equal professional service regardless of race, color, religion, sex or sexual orientation, familial status, disability, national origin, and other legally protected classes. All advertising and marketing materials should be non-discriminatory.
- VII.** Respect all Windermere marketing materials, logo and sign standards, and follow all guidelines for personal websites. Recognize that social networking is public in nature. Be mindful when using these sites for business purposes. Review Windermere Real Estate Social Media Guidelines. Consistent Windermere branding differentiates us from all other companies and reinforces our reputation for unparalleled service.
- IIIX.** Actively encourage full compliance with the spirit of *Windermere Guidelines for (1) Standards of Practice, (2) Presentation, (3) Expertise, and (4) Multiple Offers*.
  - A. Lead by example, and follow the Golden Rule.
  - B. Take responsibility for your own actions.
  - C. Involve the branch manager, and cooperate in a respectful manner when violations of the Windermere Guidelines are alleged.
  - D. When concrete evidence suggests wrongdoing without remorse, apology or restitution, use the Windermere Grievance Procedures in a timely manner.

I endorse and agree to abide by the license laws in the states in which I hold an active license, the NAR Code of Ethics, these *Standards of Practice* and Windermere’s conflict resolution procedures.

\_\_\_\_\_  
Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Manager

\_\_\_\_\_  
Date

The Windermere *Standards of Practice* guidelines were created with the input and participation of Windermere agents, managers and owners. They have been reviewed and updated over the years and serve as a guide in day-to-day dealings with buyers, sellers and Windermere associates, as well as with agents from other companies.

Each office designates an agent who will represent the office when the guidelines are periodically reviewed. The representative is also someone who will keep the *Standards of Practice* alive and well in their office.

**The agent acting as the *Standards of Practice* representative:**

- Sets standards for cooperation and trust, thereby becoming a positive role model for other agents.
- Plays the role of spokesperson for the office—becoming the liaison between the office and the committee members.
- Acts as a sounding board for agents when concerns arise regarding offices or agents following the principles outlined while retaining confidentiality.
- Agrees to a two-year tenure and attends meetings with a group of representatives from their geographic area.
- Gives input in the event that the *Standards of Practice* guidelines require review.
- Occasionally may be called upon to volunteer as part of a *Standards of Practice* grievance panel.

# Windermere Guidelines for Presentation



As Windermere agents, our primary concern is the clients' best interest. The following guidelines are intended to clarify and improve the presentation process with our clients and that of the agent representing the other party.

- I. **General guidelines for working with client:** Personal presentations are a priority.
  - A. Understand the important issues and concerns of the client and create realistic expectations by educating them in the process.
  - B. Understand the duties to the client under *Law of Agency* and respect client confidentiality issues.
  - C. As the advocate for the client, seller or buyer, encourage face-to-face presentation whenever possible. Most communication is non-verbal and body language can reveal important information that does not show itself in the words of a contract. This also provides an opportunity to furnish important supporting details and priorities of the parties. Negotiations can take place in a shorter amount of time when there is an opportunity to ask questions during the presentation process.
  - D. If a face-to-face presentation to clients is not possible (out-of-the-area clients, builders, banks, etc.) prepare a written statement to accompany the documents being negotiated.
  - E. Consider a prelisting inspection as a good offense for the seller in certain situations (estate sales, rental property, deferred maintenance). This may set the stage for realistic offers from the buyer and not force the seller to negotiate an inspection with short timelines.
  - F. Prepare for the presentation. Think about the terms and conditions from the client's point of view, as well as the other party's point of view, and the benefits to each.
  - G. Presentation to the client and the other agent takes place throughout the sale process. Inform and remind the client of their obligations and deadlines as outlined in the *Purchase and Sale Agreement*. Follow up on substantive conversations by using a phone log for risk reduction and/or email for clarification/confirmation.
  - H. Consider the value to the buyer or seller client of face-to-face presentation in negotiating the inspection. Get bids for any work being negotiated.
  - I. Document the file, with notes and information, to reduce misunderstandings and risk.

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# *Windermere Guidelines for* **Presentation**



## **II. General guidelines for working with agents:**

- A. Introduce yourself with a brief description of experience, if appropriate, and ask for the opportunity to present face-to-face so as to fully represent the client (whether buyer or seller).
- B. Disclose any restrictions/limitations of the parties (i.e., present all offers to listing agent).
- C. Follow all MLS rules and regulations regarding the presentation of offers/negotiations (i.e., work through the other party's agent; do not contact another agent's client directly).
- D. Provide all relevant forms and information as attached docs. Make sure the Form 17 is complete, including any explanations and attachments as required.
- E. Prepare all paperwork in a legible manner.
- F. Be prepared to educate the other agent on the terms and benefits/consequences of the offer/counteroffer or inspection negotiations by considering the other's point of view and possible concerns. The goal is a "win/win" outcome.
- G. Communicate in a timely fashion and in the appropriate manner (phone, fax, email) at all the steps along the way.
- H. Residential real estate is an emotional experience for the clients. Remain calm; take time to develop options/solutions to problems before meeting with the client and/or agent. Do not make the process a "personal" one. Respect the other agent.

Real Estate is a complicated process that requires expertise to serve our clients' best interests. Agents need to assess their clients' objectives and ask themselves what the best solution is to achieve those objectives. Agents must recognize that some types of transactions are unique and require specialized skill sets not commonly possessed by most agents. Potential solutions include referring clients to other agents or collaborating with another agent. These "Expertise" guidelines are intended to guide agents in situations such as those described below.

The client's objectives and level of knowledge and experience are key to determining if the agent can serve their best interests. Below are the most common types of transactions in which agents need to ask themselves whether they have the expertise to ensure a successful outcome.

- **Geography:** Clients may request us to work outside of our normal geographical areas. Since local knowledge can be so critical to a successful transaction, agents need to assess these requests carefully.
- **Distressed properties including but not limited to short sales and REOs:** Regulations and complexities of dealing with such properties change constantly. An agent's ability to best represent our clients can be challenging without proper knowledge and understanding of the process.
- **Leasing:** Landlord/tenant laws are complex and detailed, making it difficult to guide some landlords or tenants. Windermere Property Management can be a good resource where available.
- **Commercial:** Contracts, negotiations, and protocol may be very different than traditional residential transactions.
- **Land:** Land transactions involve varied and complex issues that extend beyond the typical residential transaction.
- **Investment:** Successful investment transactions may require examining many additional variables. Understanding the client's objectives and knowledge is critical to determine if the agent can best serve them.
- **Transitions:** Clients age 65 and over may require an enhanced level of sensitivity, knowledge, transparency, and skill regarding issues related to late-life moves. These issues include, but are not limited to, legal, financial, tax, and healthcare-related matters. Transitions clients may also require services and support outside the scope of the typical residential real estate transaction.
- **Other areas of consideration:** Waterfront properties, business opportunities, house boats, manufactured and mobile homes, new construction, time shares, fractional ownership, trusts and estates, to name just a few.

Whenever an agent doubts their ability to best serve their client, they should discuss it with their branch manager or owner.

To significantly reduce risks and increase the likelihood of a successful outcome to a transaction, refer the client to an expert or consult a specialist to assist you in the process.

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# *Windermere Guidelines for* **Expertise**



Agents may determine they need to involve another agent to achieve the client's goals and needs. If so, they should consider the following options:

- **Cooperative relationship:** When working outside of your given expertise, you should expect to pay for guidance, support and assistance. It may be in the form of a co-listing, referral fee or an hourly fee. Any of these situations should be clearly outlined in writing to define the split of work, expenses, and commission between the two agents. Good communication between the client and both agents is key to making this relationship work.
- **Referral:** Windermere has always allowed agents to place referrals with other agents directly. In these cases it's important that the agent stay in touch with the client and referred agent throughout the process/transaction to ensure the client receives the level of service they expect and deserve. Referral fees should also be agreed upon upfront and in writing. Windermere agents can also have their referrals serviced by Windermere Relocation and Referral Services, who will take care of the follow-through for them either within the Windermere network or most anywhere else in the world.

Extending goodwill is a prerequisite to successful business relationships.

In the event you need to work out of your area of expertise with a buyer or seller without the guidance of a proven professional:

**Do:**

- Contact your manager or owner for any advice and guidance.
- Conduct the most thorough research possible prior to providing any services to your clients.
- Disclose your limited experience and expertise to your clients.

Be aware of the technical differences that require specialized knowledge and experience. In addition, be aware of different MLS rules and regulations, local customs/ordinances, and legal hazards. The further away from your "customary" practices, the more at risk you are of not serving your client's best interest.

It is the "Windermere Way" to give your client the opportunity to decide what option is best for them.

# Windermere Guidelines for Multiple Offers\*



Multiple offers are a challenge to both agents and their clients. The best way to prevent the problems often associated with multiple offers is for all agents involved to understand their responsibilities for managing the situation and to have them communicate with all parties in an ethical and timely fashion.

## I. Both agents:

- A. Educate your clients on the realities of the current market.
- B. Advise your client that the order in which offers are received does not inhibit the seller from choosing the offer they prefer.
- C. Multiple offers are a response to a market condition or a particular property.
- D. Agents and buyers cannot control the seller's response.
- E. Buyers need to provide the best offer they are willing and able to make, initially, understanding they might not get another opportunity.

## II. Listing agents: The listing agent bears the primary responsibility for managing a multiple offer situation.

- A. Always adhere to all MLS rules (for example, input restrictions or abnormal showing restrictions) and state laws regarding the presentation of offers. (Refer also to *Guidelines for Presentation*.)
- B. It is generally in the seller's best interest to have buyers' agents present all offers directly to the seller and their listing agent. This ensures that each offer is presented accurately and fairly.
  - 1) Listing agent to seller relationship:
    - a. Counsel sellers about possible scenarios that come up in multiple offers situations
    - b. Discuss a game plan ahead of time with your seller.
    - c. Establish the date and time when potential offers will be reviewed. Avoid presentations earlier than initially stated date.
    - d. Make a plan for dealing with escalators and caps. (Refer to *Multiple Offer Comparison Sheet*)
    - e. Discuss how an offer from the listing agent is to be managed.
    - f. Make every effort to stick to the plan, but remember that your duty is to act in the seller's best interest at all times.

\* State laws and MLS rules regarding the presentation of offers vary from state to state. Make sure you are familiar with state laws and MLS rules that will impact your duties under these guidelines.

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# Windermere Guidelines for Multiple Offers



- 2) Listing agent to buyer agent relationship:
  - a. If there are set parameters for receiving and reviewing offers (i.e., when, where, etc.), include them in the agent remarks.
  - b. Inform all agents of the plan. Provide the same information regarding the *Purchase & Sale Agreement* review process to all interested parties.
  - c. Communicate to agents if the review process changes (e.g., time or day).
  - d. The listing agent should direct selling agents to confirm offer status prior to submitting their offer, if that is important to them and their buyer.
  - e. While some listing agents disclose details of an offer to another party, doing so often generates ill will and is strongly discouraged. All options should be discussed with the seller prior to disclosing any details. Always inform selling agents of the status of unaccepted offers as soon as possible.
- 3) Listing agent also representing a buyer:
  - a. Whenever you have multiple offers that include one written by you (as listing agent), disclose this to other agents presenting offers. When representing a seller, always involve your manager in the review process when multiple offers include one prepared by you.
  - b. In a multiple offer situation where the listing agent has also written an offer, if the other proposals are faxed to the office, they should be faxed to the branch manager, not to the listing agent. Accept the fact that a listing agent is sometimes asked to present an offer of their own *after* they have received a copy of other offers. In such an event, it is essential that the listing agent's branch manager be present at presentation and that the selling agents be allowed to present their own offers if at all possible.

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*Windermere Guidelines for*  
**Multiple Offers**



**III. Selling agents:**

- A. Call the listing agent to ask what matters most to the seller.
- B. Educate buyers on the pros and cons of all steps that can strengthen or weaken an offer, such as adding or removing contingencies.
- C. Educate buyers regarding possible outcomes of their offer. Prepare the buyer for possibly accepting a backup position and explain both pros and cons.
- D. Carefully consider the rules for presentation set by the seller, yet keep in mind that your duty is to act in the buyer's best interest.
- E. Confirm that there are still multiple offers before your presentation.

*What buyers and sellers need to know about*

# Fair Housing



## **Our goals and objectives**

All of us at Windermere Real Estate are committed to the principles of Fair Housing practices for all. Fair Housing is a matter of dealing equally with all people as well as a matter of federal, state and local laws. Fair Housing involves everyone, and we have to count on your being our partner in that effort as we work to find you a home or sell your home.

We are experts in homes. It is our responsibility to provide you with the information you need to make a wise decision for yourself. Our task is to do our best to locate a home with the characteristics, location and price you want, or to find a buyer who can satisfy your needs as a seller. It is also our task to provide you with enough information about current market conditions, including the sale prices of properties that have recently sold, to enable you to intelligently determine the price you are willing to pay or receive for a specific property.

You may wish to have available other kinds of information. Many buyers ask questions about the people who live in a neighborhood: "What kinds of people live here?" "Are there many children in the neighborhood?" "Are there any registered sex offenders nearby?" "Is there much crime here?" "Are there any especially noisy neighbors?"

Sellers may ask similar questions: "What kind of people make good prospective buyers?" "Who will fit well in this neighborhood?" "Do unmarried couples make good buyers?"

Such questions are outside the scope of our professional practice. Some of them raise Fair Housing issues, and all of them seek subjective judgments rather than objective information. Such questions are important to buyers and sellers, but you ought to be aware of the laws that restrict the rights of buyers and sellers to make decisions based on such inquiries.

## **The law**

Federal law prohibits discrimination in a real estate transaction based on race, color, religion, familial status, sex, handicap and/or national origin. In addition to the federal prohibitions, most states prohibit discrimination based on creed, marital status, sensory/physical/mental disability, use of a service animal (e.g., a seeing-eye dog), sexual orientation, and honorably discharged veteran or military status. Some local laws go even further to prohibit discrimination based on age, ancestry, gender identity, political ideology, and participation in Section 8 programs (for low-income families).

For buyers, there is a way to make your own private decision about whether a neighborhood and its surroundings are right for you. Most standard purchase forms used throughout our network allow you to include a contingency for a "Neighborhood Review" period. This gives you time to conduct your own exploration of the neighborhood for answers to the questions that are important to you. Ask your agent what options exist in your area for this kind of contingency.

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*What buyers and sellers need to know about*

# Fair Housing



Sellers should be aware of the laws that prohibit choosing a buyer based on legally protected class status. Generally speaking, if a seller receives a bona fide offer on a property, the seller cannot refuse to sell to, or even refuse to negotiate with, the prospective buyer based on the above-mentioned prohibited criteria. Sellers may not falsely represent that the home is no longer for sale, nor can they advertise the home with an indication of preference or limitation on what type of people may purchase it.

Real estate agents may not engage in any such practices, either. In fact, agents are prohibited from “steering” prospective buyers to specific neighborhoods based on the above-mentioned criteria. Agents who perform prohibited discriminatory practices on behalf of their principals subject both themselves and their principals to liability.

A victim of discrimination may pursue a civil lawsuit or an administrative claim. The victim may seek a temporary restraining order, permanent injunction, actual damages, punitive damages and attorney’s fees.

## **Further resources**

There are many resources available at the public library, such as census figures that provide a wide range of statistical information about the people in the neighborhood. The local police precinct station can provide data about crime, and public school districts can provide information as well. Much information is also available on the Internet.

Dual agency can be risky. If you want to be a dual agent, it is recommended that you consider the items listed below before forming a dual agency relationship. If you are the seller or buyer (or landlord or tenant), or have an ownership interest in the seller or buyer, legally you cannot be a dual agent.

**I. Determine the level of risk.**

<b>Consider the following factors that may increase risk:</b>	<b>SELLER</b>	<b>BUYER</b>
You have a family relationship with	<input type="checkbox"/>	<input type="checkbox"/>
Friendship/social relationship with	<input type="checkbox"/>	<input type="checkbox"/>
Presently doing other business with	<input type="checkbox"/>	<input type="checkbox"/>
Previously done business with	<input type="checkbox"/>	<input type="checkbox"/>
You hope to do other business with	<input type="checkbox"/>	<input type="checkbox"/>
You hope to profit or gain from a party or the transaction, other than just earning a commission	<input type="checkbox"/>	<input type="checkbox"/>
You are aware of a party's confidential information concerning:		
Financial situation	<input type="checkbox"/>	<input type="checkbox"/>
Goals and objectives concerning real estate	<input type="checkbox"/>	<input type="checkbox"/>
Negotiating position on price and terms	<input type="checkbox"/>	<input type="checkbox"/>
Negotiating style	<input type="checkbox"/>	<input type="checkbox"/>
Other information that a party might want to be confidential	<input type="checkbox"/>	<input type="checkbox"/>
You speak a party's primary, non-English language	<input type="checkbox"/>	<input type="checkbox"/>
Party has less-than-average capacity in any respect: For example: not alert, easily confused, faulty memory, low literacy, vision or hearing impaired, low mental capacity, easily swayed, distracted by stress such as death in family	<input type="checkbox"/>	<input type="checkbox"/>
Party has lower-than-average sophistication in property/legal matters	<input type="checkbox"/>	<input type="checkbox"/>
Party tends to misunderstand or misinterpret what you say	<input type="checkbox"/>	<input type="checkbox"/>
Party has refused your urging to seek legal advice	<input type="checkbox"/>	<input type="checkbox"/>
Party is more likely than usual to file lawsuits	<input type="checkbox"/>	<input type="checkbox"/>
Situation or transaction is unusually complex or requires more than the usual broker guidance of either party	<input type="checkbox"/>	<input type="checkbox"/>

*(continued)*

**II. Either decline Dual Agency or take steps up-front to control risk.**

- Always consult your manager or designated broker before undertaking a dual agency, describing fully any risk factors.
- If you are in a particularly close relationship with one party and not the other (for example, seller is a long-time, repeat client), dual agency can be very perilous and you should consider avoiding it.

**Consider alternatives:**

- You can refer one or both parties to another broker and receive a referral fee that is normal and customary in amount.
- You can disclaim an agency relationship with one or both parties with the proper signed documentation.

**Explain the implications to all parties and make sure they understand and agree:**

- You will have to treat all parties impartially.
- You cannot take any action that would be adverse or detrimental to either party.
- You will not be able to take sides in any later dispute.
- You will be limited in the ability to provide opinions on matters such as price and contract terms.
- There may be other consequences that no one can foresee.

**If you have a family, friendship, or business connection with either party, you must go further:**

- Describe the connection fully, and in writing, to the parties.
- Get the informed, written consent of both parties.

**If a party has limited capacity or understanding, getting their “informed” consent may be impossible, in which case dual agency should be avoided.**