

# BUYER OPTIONS

## FOR REPRESENTATION





**2024  
CHANGES**

The outcome of a 2024 class-action lawsuit in Missouri has shone a light on how real estate transactions are conducted, and especially on how Buyer's Agents are compensated.

In Utah, we have for many years been following practices that are almost fully compliant with the outcome of this lawsuit, so the changes are minimal.

**The biggest adjustment that directly impacts you, is that all Agents are required to have a signed buyer representation agreement before showing any property to the buyer, whether it be in person showings or live "virtual" showings. This even applies to our own listings.**

Myself, and many other agents have, in the past, followed the principle of "showing our worth" before asking for a signed buyer representation agreement. That is no longer an option. What I would do though, if you choose to work with me, is to make that initial signed agreement for a very short duration, or make it only applicable to specific properties, so that you have the opportunity to "test drive" our relationship and see if we are a good mutual fit.

**Additionally, it must be clearly stated that all real estate commissions, both on the selling side and on the buying side are fully negotiable, and that a seller cannot be forced to pay a buyers agent commission.**

This has been the case in Utah for many years, but it doesn't hurt to restate it. I believe that most sellers will continue to offer to pay a reasonable buyers agent commission, for reasons I will expand on later, but they are not required to do so.

These changes are being implemented simultaneously nationwide, so this is an industry-wide adjustment. Now let's look at the specific options you have available in terms of representation:

## REPRESENTATION OPTIONS

1. *Buyer's Agent*
2. *Limited Agency*
3. *Unrepresented Buyer*

# OPTION 1 | BUYER'S AGENT

*You can choose to work with a Buyer's Agent, whether me or another Realtor, who is dedicated solely to representing your interests. This is the option that gives you the highest degree of legal protection, and is the option recommended by most brokerages, including my own brokerage, and by the National Association of Realtors.*

**More than 89% of buyers choose to work with a Buyer's Agent.**

Here are some ways in which a skilled and experienced Buyer's Agent can reduce your risk, workload and stress, and ensure a successful conclusion to the transaction:

- 1. *A Buyer's Agent has a fiduciary duty to their client.*** This is the highest form of legal obligation, identical to that an Attorney has to their client, and ensures that the Buyer's interests come first at all times. When you work with a Buyer's Agent, that agent owes you their undivided loyalty. This allows that agent to give you much more information and advice than would otherwise be the case, making your decision-making process so much easier.
- 2. *A Buyer's Agent is a skilled and experienced real estate professional, overseen by a very experienced Principal Broker, and they have the support and resources of the brokerage at their disposal to assist the transaction.*** The Principal Broker is in turn overseen by the Utah Division of Real Estate. When working with a Buyer's Agent, you have a very deep bench on your side, and access to considerable resources.
- 3. *"What could possibly go wrong?" The reality is that a lot could go wrong, and often does go wrong with many transactions.*** You may like to think that a real estate transaction is simple. The truth is that most transactions reach a successful conclusion due largely to the efforts of experienced agents on both sides of the transaction resolving the problems that inevitably arise.



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**of buyers choose**  
**to work with a**  
**Buyer's Agent.**

4. ***A Buyer's Agent has access to a network of other agents that can allow them to find available off-market properties.*** One of these might be perfect for you. A surprisingly large number of my transactions do involve off-market properties. A surprisingly small number of my transactions, on the other hand, involve my client purchasing the property they initially thought was what they were looking for. After talking it through, we often find that factors they did not initially consider become important, and they end up purchasing a different property.
5. ***Once you find the perfect home, a Buyer's Agent will stand in your corner during negotiations.*** Real estate transactions are complex, and often unique in circumstances. There is no Google guide to how to do it, it's called experience. Using a Buyer's Agent puts you on an equal footing with the Seller, who will almost certainly be using a Listing Agent. In the 6% of cases where the Seller is not using a listing agent, you will have an advantage.
6. ***A Buyer's Agent is experienced in all matters relating to the transaction, or has access to experts if the subject is highly specialized.*** Are you an expert on Radon? Mold? Encroachments? Clouds on Title? If not, the likelihood of your purchase closing as planned and on time is greatly reduced. You may pull back when problems arise, rather than take a risk. That is sensible. Your transaction is likely the biggest investment you will ever make, and it involves considerable risk. A Buyers Agent can eliminate that risk through knowledge and contacts, at no additional cost to you.
7. ***Even for Buyers who feel they have the skill set to navigate the process without professional help, it is unlikely that their experience is recent.*** Most people buy only a few homes in a lifetime, usually with quite a few years between purchases. Even if you've bought a home in the past, laws and regulations change and vary greatly by state. Most real estate professionals in our market handle dozens of transactions a year and are required to be fully conversant with any changes as part of their Continuing Education requirement with the Utah Division of Real Estate.
8. ***A Buyer's Agent has access to a network of related professionals, such as mortgage brokers, home inspectors, title companies and contractors.*** We work with these people each and every day, and that long-term relationship and the trust that has evolved, allows us to be confident they will take extraordinary measures for our Buyers. If needed, we can request prioritized treatment to get things done at short notice. Most Buyers would not be able to do that.



**Real estate fraud is on the rise. The FBI reported over  
\$145 million in losses in 2023.**

**Using a real estate agent is crucial; agents can identify  
red flags, verify transactions, and  
safeguard your financial interests.**

# BUYER'S AGENT COMMISSION

If you do decide to work with a Buyer's Agent, how does that agent get paid? Since the 1980s, Sellers have paid Buyer's Agents commission at Settlement, through an arrangement whereby the MLSs clearly displayed the **Buyer's Brokerage Commission (BBC)** being offered and all Brokerages on the MLS were bound to honor this advertised amount. The Missouri lawsuit has, unfortunately, mandated some changes to this practice. Going forward, here are the ways a Buyer's Agent can be paid:

- ***The seller proactively offers an acceptable BBC.*** We will know this in advance of touring the property. I believe most Sellers will continue this practice, because they will want as many Buyers as possible to view their property. A Seller may rightly feel that some Buyers may elect not to tour a home which offers compensation less than the agreed BBC.
- In the case where we feel the offered BBC is too low, or where one is not being offered, ***we can negotiate the BBC in advance of making an offer.***
- In the case where neither of the first two options is successful, ***we use an addendum to the REPC to negotiate for some or all of the BBC to be paid by the seller as part of the contract.***

In the case where the Seller is not willing to agree any of these options, then

- ***The buyer pays the balance of the BBC not collected otherwise.*** In this situation, we would expect Buyers to factor this cost into their offer. Of note, it is possible in some cases to wrap this balance of the BBC into a loan, if one is being obtained, so it is not necessarily money paid at closing.





## CASE STUDY #1

### Strategic Connections, Expert Solutions

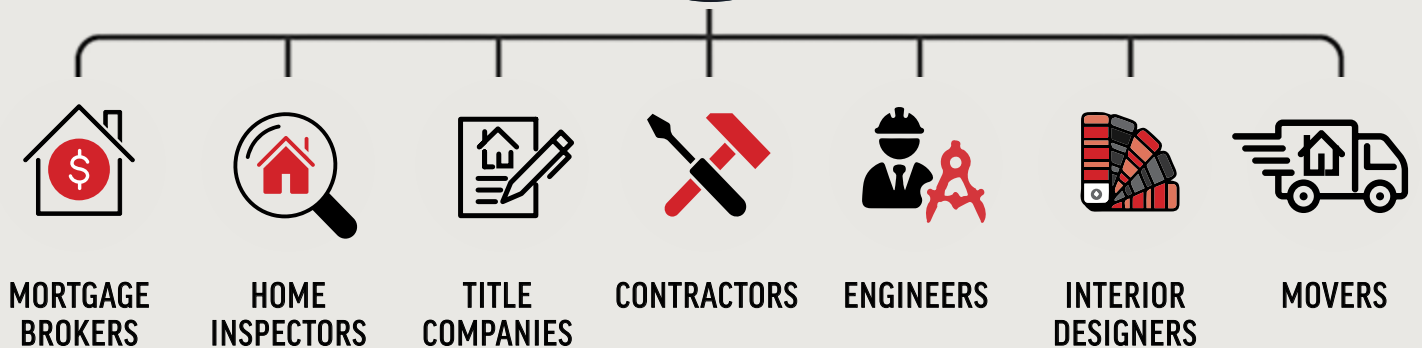
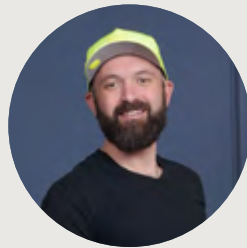
Finding off-market listings is bread and butter for a good Buyers Agent. Ben and Carolyn owned a condo here in Park City and loved it so much that they wanted to move here from the Bay Area. However, this was during the COVID boom and homes were hard to find. I managed to find them a spectacular off-market listing through my realtor network, which they loved. The problem was that this all happened very quickly and they still had to sell their home in San Francisco. Their home fortunately went into escrow quickly, and I was able to co-ordinate with their Realtor in the Bay Area to de-conflict deadlines and keep them “safe” through the transaction, so they elected to proceed with an offer in Park City. Unfortunately, their Bay Area home had roof problems that were revealed during the inspection, and the roof required repairs and a longer settlement period. Normally, they would have had to cancel the purchase here in Park City, but we were able to negotiate an extension of their contract by offering the release of some deposit money to the Seller. With this problem solved, we then had a time crunch with getting finance approved, but again the fact they had chosen to use a local mortgage company I had recommended, allowed me to “call in a favor” and get things done in time for Settlement.

This was a transaction that could not have happened without the professional relationships, and the expertise, that myself, my colleague on the Selling side of the transaction, and the mortgage broker all brought to the table.

# CASE STUDY #2 | Network of Professionals

Navigating major repairs can be difficult and stressful. Patrick and Katherine had decided to make the move to Park City from Boston because they loved the lifestyle. They had initially considered buying land and building a home, but I was quickly able to put this thought to bed when, based on my construction experience, I informed them of construction prices in Park City. Building was not an affordable option for them. We found a lovely existing home in Pinebrook that was perfect for them, and we managed to get the home under contract. However, I had a significant concern about a large retaining wall at the side of the driveway that had a slight lean to it. I was able to bring in a Structural Engineer who worked for me on building projects, and he confirmed this was a major issue, repairable, but expensive. We were able to present a report to the Seller who agreed to make repairs at a cost of \$150,000. We still had to navigate concerns from the lender, which we were able to do as a result of co-operation between the two agents, the Structural Engineer and the Repair Contractor. The transaction closed, and my clients are very happy in the home.

## We Have a TRUSTED NETWORK of Related Professionals



## CASE STUDY #3 | A Strategic Edge

Multiple offer situations can be very challenging. Blake and Lou Ann were looking to purchase a home in Park City at the height of the “COVID Boom”. Multiple offers were very common, and the average sale price was 105% of list price. It was a time that required quick thinking and decisive action. A very nice townhome came up in Canyons Village, but there were four other offers in place after only one day on the market. After talking it through, we decided to offer over list price, but also to release \$10,000 of deposit money to the Seller on contract acceptance. The List Agent later told us that it was this display of commitment and confidence in releasing the deposit on contract acceptance that caused the seller to accept our offer over the others.



## OPTION 2 | LIMITED AGENCY

***Limited agency (also known as “dual agency” in some states) is when one real estate agent acts as both the Buyer’s Agent and the Listing Agent.***

In other words, a Limited Agent represents both the buyer and seller in a real estate deal. Limited Agency is illegal in the following eight States: Wyoming, Alaska, Vermont, Colorado, Florida, Maryland, Texas, and Kansas. All the other states and the District of Columbia, do permit Limited Agency, but with significant caveats. Also, Limited Agency is not dominant in these states. The conventional method where a Listing Agent represents the seller and a Buying Agent acts for the buyer is still by far the most common. Limited agency has several pitfalls, which probably explains why it’s illegal in these eight states. Here are some of the disadvantages of Limited agency:

- 1. In Limited Agency there are competing Interests.*** When Buyer and Seller have different Agents representing them, the Buyer trusts their agent to get them the best deal. In so doing, they expect their agent to negotiate the cost and get them the lowest price and most favorable terms. On the other hand, the Seller trusts their Listing Agent to get them the highest possible price for their property. When one agent acts for both the Seller and the Buyer, a conflict of interest occurs. With the clash of interests, a Limited Agent may end up inadvertently favoring one party in some way. This conflict leads Limited Agency to be the most common cause of real estate lawsuits. Either Buyer or Seller can end up feeling the Limited Agent did not represent them adequately.
- 2. Limited Agents handle nearly twice the workload since they act for both parties.*** This means workload and stress are much higher. Therefore, the chances of the agent missing some details are markedly higher. Small, but very important, details such as not having home insurance in place at closing, or a Buyer who loses their loan because they took on extra credit after approval, or an easement that is missed on the Title Report can sink a deal before the transaction is closed. The Listing Agent might encourage a backup offer. A Limited Agent encouraging a backup offer may be doing so to the benefit of the seller but the determinant of the buyer.



3. ***A Limited Agent is constantly walking a tightrope.*** The Limited Agent knows the non-negotiables for each party, and may know what each party will accept. The Limited Agent needs to constantly remind themselves what they cannot say, and what they must say. There is a strong temptation, that must be resisted, to leverage the information they possess to just keep the transaction progressing. This may not be in your best interests as the Buyer.
4. ***Normally Limited Agency results in a much more difficult transaction and much higher risk.*** However, there are situations, and I have been in one, where a limited agent is able to keep a deal together in good faith when it otherwise might have fallen apart. Inevitably, this is when both Buyer and Seller are repeat clients and have a high degree of trust and experience with the agent. These cases are very rare.
5. ***For these reasons above, my brokerage strongly discourages Limited Agency.***

## OPTION 3 | UNREPRESENTED BUYER

*An Unrepresented Buyer is one who does not use an agent to represent them.* This situation is another one that may be very difficult to manage for the List Agent, and is the second most common cause of real estate lawsuits.



*The Unrepresented Buyer subconsciously feels that the List Agent will “help them out” during the transaction, but in fact the Listing Agent has a fiduciary duty to their Seller.* They will do everything in their power to ensure their Seller gets the best deal possible. They most definitely will not help the Unrepresented Buyer, except in the case where there is benefit to their Seller. The imbalance in this situation almost always results in:

1. ***The Buyer Overpaying.*** Without a buyer’s agent to advocate for their interests, unrepresented buyers may end up paying too much for a home or not negotiating the best terms.
2. ***Buying the wrong home.*** Unrepresented buyers may not understand the nuances of neighborhoods in our specialized market, and may end up buying in the wrong area for their needs. The List Agent will not point this out, because their interest is to their Seller. In all likelihood, they will ask no questions about the Buyers needs at all.

3. ***Making mistakes in the transaction, that can cost them literally millions of dollars.*** Unrepresented Buyers may not have access to the forms needed to write an offer, or they may not understand how to make a viable offer. They may not understand the importance of complying strictly with the terms of the contract, and they may miss deadlines.
4. ***The Unrepresented Buyer may feel they will save money by being unrepresented.*** This is absolutely not the case. Commissions are set at the time the listing is taken, and any benefit through saved commission will go to the Seller. This is especially the case as the result of changes enacted due to the Missouri lawsuit. Therefore, the Unrepresented Buyer is giving up representation, saving nothing, and exposing themselves to risk.
5. ***Limited Access to Listings.*** As mentioned earlier, myself and other agents in our market have access to more listings, including those not publicly advertised. As an Unrepresented Buyer, you will not be aware of any of the properties that are not yet on the MLS. Some of them may never be on the MLS, but might be available. One of these might be the perfect home for you, and if you worked with a Buyers Agent, that agent would introduce these to you.

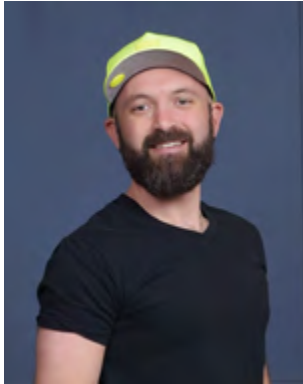
## SUMMARY

Your three options for representation as a Buyer are:

1. **Employ the professional services of a dedicated Buyer's Agent**
2. **Work with the Listing Agent in a Limited Agency situation.**
3. **Act as an Unrepresented Buyer.**

**The very strong recommendation from myself, and my Brokerage, is to work with a dedicated Buyer's Agent, whether me or someone else. This affords you the greatest protection in what will most likely be one of the largest purchases you will ever make, and in all likelihood will not cost you a penny more than the other two options.**

# GET MORE WITH WAYNE



**WAYNE LEVINSON | REALTOR®**

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**www.Park-City.com**

Thank you for the opportunity to introduce myself and share how I can support you in one of life's most exciting and important decisions—buying or selling a home. My name is Wayne Levinson, and I'm proud to be a licensed REALTOR® with Keller Williams, one of the most trusted and innovative brokerages in the industry.

While I am newly affiliated with Keller Williams, my journey in real estate began long before I joined this brokerage. I've personally closed over 100 transactions as a real estate investor, including flips and rental acquisitions in multiple states. I bring to the table not only local market knowledge but also a strategic mindset and negotiating expertise rooted in years of hands-on experience.


Whether you're relocating, upgrading, downsizing, or investing, I approach each transaction with a deep commitment to transparency, advocacy, and results. As a full-time agent, I prioritize clear communication, data-driven strategies, and tailored guidance from start to finish.

This packet is designed to give you insight into the process, set expectations, and showcase how I work to ensure a smooth, successful experience for my clients. I'd be honored to help you take the next step toward your real estate goals—and to be your trusted resource every step of the way.

If you have any questions after reviewing this information or would like to schedule a consultation, please don't hesitate to reach out.







★★★★★ *"Wayne was absolutely amazing from start to finish. We are not local and Wayne would go video homes for us with no advance notice. He got to know us well and knew exactly what we were looking for in a dream home. Once we found the right home, he walked us through the process, gave us excellent advice, and went above and beyond so that it was a smooth transition! He is even willing to help us with the home after the sale to get some work done before we arrive to Park City. Thank you WAYNE!!"*

★★★★★ *"Wayne was great , we are from Florida, we did not know well the area, he helped us to locate the right area and the right property within our budget supported us with negotiating the price and term, helped us with closing, and then following the closing, he made an extra mile introducing us to contractors to make some upgrades, and stores in the area to fulfill our needs, he was great."*

★★★★★ *"Wayne did an amazing job helping us purchase our condo. From the moment we met, his quickness to respond exceeded our expectations. He was able to give us insight into the building and area we were looking at. Including, restaurant reviews, which part of the mountain to ski, and information on local events. Working with Wayne and the network he has was very easy. He helped coordinate the entire process, and did a great job explaining each step. There was never a time I did not feel like he was my advocate. Largely, because he took the time to understand what we were looking for, then confirmed our priorities. If you have the chance to work with Wayne, I highly recommend him to help you as your agent."*

★★★★★ *"I had the absolute pleasure of working with Wayne Levinson on the purchase of my home in Park City, Utah, and I can confidently say he is the best real estate agent I've ever worked with. From our very first conversation, it was clear that Wayne possesses an exceptional knowledge of the Park City market, including neighborhood trends, property values, and local amenities. His insights were invaluable in helping me make informed decisions throughout the entire process. Wayne was incredibly responsive, patient, and proactive, always making sure I felt supported and well-informed every step of the way. He took the time to understand exactly what I was looking for and went above and beyond to find the perfect home to meet my needs. His negotiation skills and attention to detail ensured that I got the best possible outcome. Above all, Wayne's professionalism and integrity set him apart. He truly had my best interests at heart, and I never once felt pressured or rushed. Buying a home can be stressful, but with Wayne guiding the process, it was smooth, efficient, and even enjoyable. I can't recommend Wayne Levinson highly enough to anyone looking to buy or sell real estate in Park City. He is an outstanding agent and a trusted advisor who genuinely cares about his clients' success."*

# KELLER WILLIAMS EXCELLENCE

## 5 TOP FRANCHISES IN US With the Top Sales Volume

- #1 Keller Williams ~\$439 B
- #2 Coldwell Banker ~\$294 B
- #3 RE/MAX ~\$291 B
- #4 Sotheby's ~\$146 B
- #5 Berkshire Hath. ~\$146 B

T3 Sixty Rankings - 2023

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*Keller Williams agents sold more luxury real estate (defined as the top 10% of any market) by units in a survey of the 24 largest U.S. luxury markets where data was available. [Luxury.kw.com](http://Luxury.kw.com)*



# Forbes

## 2023 BEST OF LIST

World's Best Employers  
World's Top Companies for Women  
America's Best Large Employers  
America's Best Companies for Diversity  
America's Best Employers for Women  
America's Best Employers for New Grads

# #1 in US

Keller Williams Realty is  
#1 in the country in 2023

**AGENT COUNT**  
**CLOSED UNITS**  
**SALES VOLUME**

[headquarters.kw.com](http://headquarters.kw.com)

## BEST of STATE

Real Estate Services in Utah



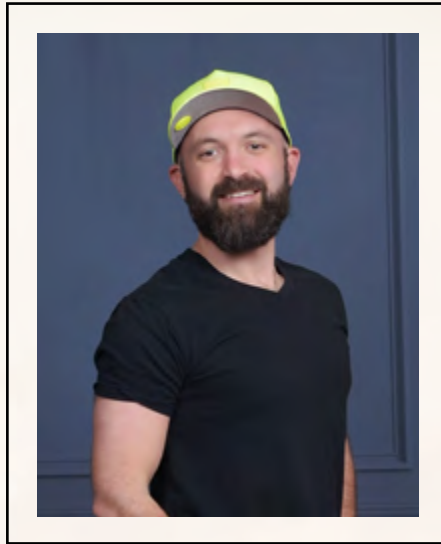
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