

WHAT SHOULD A LISTING BROKER DO: POST-MLS RULES CHANGES

(Once the MLS changes required by the NAR settlement go into effect)

July 22, 2024

Two important dates are coming up: 1) On July 24, 2024, several new C.A.R. forms, which remove the option for broker to broker compensation, will become available for use in zipForm and other platforms. 2) August 17, 2024 is the deadline for REALTOR®-owned MLSs to make changes required by the NAR settlement (note that some MLSs may implement the changes before the deadline). Keep reading for guidance about how to proceed, once your MLS implements the NAR settlement practice changes, with a listing agreement that went into effect before July 24, 2024.

SCENARIO 1: The listing has already been modified or replaced with the new July 2024 version of the RLA. The property remains unsold as of the date your MLS implements the practice changes.

1. If the existing RLA was **already modified by using** the Disclosure and Modification of Listing Agreement (C.A.R. Form DM-LA), then inform the seller that the new MLS rules are now in effect and that any offer of compensation has been removed from the MLS. No further action is required.
2. If the existing RLA was **already replaced by the new July 2024 version of the RLA**, then no further action is required.
3. Depending on your MLS and with the seller's written permission, you may advertise through the MLS that the seller will consider buyer offers asking for concessions.

SCENARIO 2 – OPTION 1: The listing has not been modified or replaced with the new July 2024 version of the RLA. The property remains unsold as of the MLS implementation date.

1. Have a discussion with the seller about the upcoming changes to broker compensation. You can use the Broker Compensation Advisory (C.A.R. Form BCA) to help guide you through the discussion.
2. MODIFY THE EXISTING LISTING AGREEMENT **IMMEDIATELY** by using the DM-LA. The DM-LA: **(i)** Eliminates the existing listing agreement term authorizing the broker to make an offer compensation to cooperating buyer's brokers through the MLS; **(ii)** As a default, reduces the overall compensation to be paid to the listing broker by the amount that was authorized to be offered in the MLS; and **(iii)** Requires the listing broker to notify the seller that the MLS rules changes are effective now.
3. The property can continue to be marketed through the MLS but you can no longer continue to offer cooperating broker compensation through the MLS.
4. Depending on your MLS and with the seller's written permission, you may advertise through the MLS that seller will consider buyer offers asking for concessions.

SCENARIO 2 – OPTION 2: An alternative option to address Scenario 2, above, is to do the following:

1. Have a discussion with the seller about the upcoming changes to broker compensation. You can use the BCA to help guide you through the discussion.
2. REPLACE THE EXISTING LISTING AGREEMENT **IMMEDIATELY** by using the new July 2024 version of the RLA. You can do this by obtaining the seller's signature on the new RLA. The July 2024 RLA: **(i)** Does not authorize the broker to make an offer compensation to cooperating buyer's brokers through the MLS; and **(ii)** Only obligates the seller to pay the listing broker. There is no provision authorizing the sharing of compensation by the listing broker with a buyer's broker.
3. The property can continue to be marketed through the MLS but the listing broker can no longer continue to offer cooperating broker compensation through the MLS.
4. Depending on your MLS, and with the seller's written permission, you may advertise through the MLS that seller will consider buyer offers asking for concessions.