

Limited Service/Open Listings

The Difference Between Limited Service and Open Listings

Limited service listings are those where brokers offer their sellers little or no property marketing services beyond submitting the property listing to the MLS. **Open listings** are non-exclusive listings where the seller agrees to compensate the listing broker only in the event the seller procures a buyer.

In both limited service and open listings, a cooperating broker typically will be working directly with the seller. While limited service listings address the scope of services to be provided to a seller, open listings pertain to the scope of agency with a seller. It's possible to have an exclusive right of representation on a limited service listing.

The Relationship with the MLS and Cooperating Brokers

Under California law, MLSs are required to accept open listings. MLSs are also required by law and National Association of REALTOR® MLS policy to accept legal exclusive right-to-sell or exclusive agency listings that offer compensation to cooperating brokers – *even if they offer only limited service*. MLSs can and usually do, require that any such lack of service be disclosed to the other licensees on the MLS. This disclosure is important because cooperating brokers on those listings will often be responsible for additional work, and thereby risk potentially becoming an inadvertent agent for the seller.

A cooperating agent will want to make it clear to the seller that, even though as the cooperating agent they may perform some tasks ordinarily done by the listing agent, the cooperating agent is not the seller's agent. Instead, the cooperating agent is performing the tasks for the exclusive benefit of the buyer. C.A.R. has created the "Seller (or Landlord) Non-Agency Agreement" (C.A.R. Form SNA) for this purpose.

Laws and MLS Rules Still Require Compliance

The MLS is a broker-to-broker offer of compensation system, even if a cooperating agent ends up working directly with a seller. A listing broker is ultimately obligated to pay (and to arbitrate a dispute over) any offer to compensate cooperating brokers made through the MLS, irrespective of the level of service provided or the scope of agency in place. The fact that the MLS will accept limited service or open listings does not alter any obligations otherwise imposed on real estate licensees under California law, including Department of Real Estate regulations, statutory law and common law. The MLS's acceptance or publication of listings eligible for MLS submission does not constitute a validation that these obligations have been met.