

COMMISSIONS AFTER EXPIRATION OF EXCLUSIVE LISTING



C.A.R.
LEGAL
TOOLS

OFFER ACCEPTED DURING LISTING PERIOD

- ◎ Every REALTOR® who gets a signed exclusive listing agreement hopes to sell the property during the exclusive listing period and earn a commission as a result
- ◎ Under paragraph 3A(1) of the Residential Listing Agreement (C.A.R. Form RLA), three events must happen before compensation is due under that paragraph:
 - 1) A ready, willing and able buyer is procured (by the listing broker, another broker or the seller)
 - 2) The buyer's offer is accepted
 - 3) The escrow closes (whether during the listing term or after)

OFFER ACCEPTED AFTER LISTING PERIOD

- ⊙ Under paragraph 3A(2) of the RLA it is possible to earn compensation for contracts that are accepted *after* the listing period has expired.
- ⊙ Paragraph 3A(2) protects REALTORS® from sellers who would unfairly take advantage of a licensee's time, marketing and expertise without any obligation to pay for such services or benefits by purposefully accepting offers after the listing period.



PRE-CONDITIONS TO EARNING COMPENSATION AFTER EXPIRATION OF LISTING PERIOD

Before a licensee is entitled to a commission for a contract agreed-to after a listing period, several events must happen:



1 FIRST



- © A time period must be entered identifying for how long the protection period or safety clause lasts.
- © Since this clause extends the obligations under the listing, if this field is left blank, a court is likely to interpret the absence of days against the interest of the broker, and as an indication that the licensee did not intend for the entire clause to apply.

1 FIRST (CONT'D)



The post-listing obligation applies after expiration or cancellation of the listing agreement, unless otherwise agreed. C.A.R.'s Cancellation of Listing (Form COL) identifies different scenarios in which the seller would or would not owe compensation.



2 SECOND



- © The listing broker must give the seller a list of all prospective buyers to whom the clause is intended to apply **AND** the list must be provided before the listing period expires.
- © The purpose of the list is to let the seller know that entering into a contract with such a buyer will trigger the original broker's right to compensation.

2 SECOND (CONT'D)

 CALIFORNIA ASSOCIATION OF REALTORS®

NOTICE OF PROSPECTIVE BUYERS/TRANSFEREES
(C.A.R. Form NPB, Revised 12/15)

1. **NOTICE OF PROSPECTIVE BUYERS/TRANSFEREES:** This notice is being provided to you as required by the Residential Listing Agreement Lease Listing Agreement Other, between _____ ("Seller/Landlord"), and _____ ("Broker") for the property described as _____ ("Property").

2. **LISTING PERIOD:** The Listing Agreement commenced on _____ and was scheduled to expire on, or was extended to, _____ ("Listing Period").

3. **COMPENSATION AGREEMENT:**
A. Seller/Landlord has agreed to pay Broker the compensation provided for in the Listing Agreement if within the specified time after the Listing Period or any extension, or after any cancellation of the Listing Agreement unless otherwise agreed, Seller/Landlord enters into a contract to sell, convey, lease or otherwise transfer the Property to anyone ("Prospective Buyer/Transferee") or that person's related entity who during the listing period or any extension (i) Physically entered and was shown the Property by Broker or a cooperating broker, or (ii) Submitted to Seller/Landlord a signed written offer to acquire, lease, exchange or obtain an option on the Property.
B. The obligation above only applies if Broker has provided to Seller/Landlord a list of Prospective Buyers/Transferees no later than after the end of the Listing Period or any extension or cancellation.

4. **LIST OF PROSPECTIVE BUYERS/TRANSFEREES:**

NAME	BROKER/AGENT	DATE OF OFFER
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

checked see attached list of Prospective Buyers/Transferees

5. **NOTIFYING NEW BROKER:**
Seller/Landlord is advised to provide this Notice to any broker Seller/Landlord intends to relist with. Failure to do so may obligate Seller/Landlord to pay two commissions.

6. **DATE OF NOTICE:**
This Notice of Prospective Buyers/Transferees is being provided to Seller/Landlord on _____ (Date).

Real Estate Broker (Firm) _____ DRE License # _____
By (Agent) _____ DRE License # _____ Date _____
Address _____ City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

⦿ The list should also be provided to a subsequent listing broker to help prevent dual claims to compensation. C.A.R.'s Notice of Prospective Buyers/Transferees (Form NPB) may be used to timely satisfy this requirement.

NOTE:

The obligation to pay compensation applies if the prospect writes the post-listing offer through a related third party such as a trust, a wholly owned corporation or LLC.

3 THIRD



Every prospective buyer must have met one of two criteria in order to be properly included on the list:

- 1) The prospective buyer must have physically entered and been shown the property. It does not matter if the property was shown by the listing broker or someone else; OR
- 2) The prospect must have submitted a signed, written offer on the property.

3 THIRD (CONT'D)



- ⦿ While dozens or even hundreds of prospects may have entered the property during the listing and entered their names on a sign-in sheet, **a prudent listing broker will trim the list to those most likely prospects** before providing the names of prospective buyers to the seller.
- ⦿ Failure to do so, and including every person who entered the property, might be interpreted as overreaching by a court.

ADDITIONAL RESOURCES

LEGAL QA TITLED, RESIDENTIAL LISTING AND COMMISSION AGREEMENTS

[HTTP://BIT.LY/2SCU05T](http://bit.ly/2SCU05T)

LEGAL TOOLS, REAL ESTATE COMMISSION AGREEMENTS

[HTTP://BIT.LY/20FCUB6](http://bit.ly/20FCUB6)