

WHAT SHOULD A LISTING BROKER DO: DURING THE TRANSITION PERIOD

(Between July 24, 2024, and August 17, 2024)

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). If you currently have a listing agreement, keep reading for guidance on what to do between July 24, 2024 and the date that your MLS implements the NAR settlement practice changes.

THE SCENARIO: You have a listing agreement (C.A.R. Form RLA) in effect before July 24, 2024, and the property remains unsold as of July 24, 2024. What should you do between now and the date that your MLS implements the practice changes required by the NAR settlement?

OPTION 1

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 the discussion.
2. **MODIFY THE EXISTING LISTING AGREEMENT NOW**, or as soon as possible before your MLS implements the practice changes, by using the Disclosure and Modification of Listing Agreement (C.A.R. Form DM-LA). The DM-LA:
 - a. Eliminates the existing listing agreement term that authorizes the broker to make an offer of compensation through the MLS to cooperating buyer's brokers, once the MLS has implemented the practice changes;
 - b. As a default, reduces the overall total compensation to be paid to the listing broker by the amount that was authorized to be offered in the MLS;
 - c. Delays these modifications until the MLS implements the changes required by the NAR settlement; and
 - d. Requires the listing broker to notify the seller when the MLS changes become effective.
3. The property can continue to be marketed through the MLS.
4. The listing broker offer of compensation may continue to exist for the transition period.

OPTION 2

1. Have a discussion with the seller about the upcoming changes to broker compensation. You can use the BCA to help guide the discussion.
2. **REPLACE THE EXISTING LISTING AGREEMENT NOW**, or as soon as possible before your MLS implements the practice changes, 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 new RLA:
 - a. Does not authorize the broker to make an offer of compensation to cooperating buyer's brokers through the MLS; and
 - b. 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. Place a "0" in the MLS field offering cooperating broker compensation.
4. The property can continue to be marketed through the MLS without an offer of compensation.