

CRMLS Policy Change Summary

California Regional Multiple Listing Service, Inc.



CRMLS.ORG | 800.925.1525

Effective January 1, 2019

CRMLS RULE Changes January 1, 2019

Citation Policy Changes:

Remove from the Citation Policy the Warning Notice for Rule 7.6, 7.15, 8.2, 11.5.1 and 12.5.

Rule 7.15 Unilateral Contractual Offer; Subagency Optional.

- a) In filing a listing with the AOR/MLS, the Broker Participant makes a blanket unilateral contractual offer of compensation to the other MLS Broker Participants for their services in selling the property.
- b) Except as set forth in Rule 7.18 below or pursuant to California Civil Code Section 1087, a Broker Participant must specify some compensation to be paid to either a buyer's(s') agent or a subagent and the offer of compensation must be stated in one or a combination of, the following forms (1) a percentage of the gross selling price; or (2) a definite dollar amount.
- c) The amount of compensation offered through the MLS may not contain any provision that varies the amount of compensation offered based on conditions precedent or subsequent or on any performance, activity, or event.
- d) In the event there are any service fees or administrative costs, etc., to be imposed on buyer's agent's compensation, any such reductions should be factored in as a reduced amount the listing broker initially offers to a cooperating broker and may not be made a condition of the offer.
- e) Furthermore, The AOR/MLS reserves the right to remove a listing from the AOR/MLS database that does not conform to the requirements of this section.
- f) At the Broker Participant's option, a Broker Participant may limit his or her offer of compensation to buyer's(s') agents only, to subagents only, or make the offer of compensation to both. Any such limitations on the contractual offer of compensation must be specified on the property data form and in the MLS. The amount of compensation offered to buyers' agents or subagents may be the same or different but must be clearly specified on the property data profile sheet. Broker Participants wishing to offer subagency to the other MLS Broker Participants must so specify on the property data profile sheet and on the MLS, otherwise the offer of compensation does not constitute an offer of subagency.

Rule 7.22 Expiration, Extension, and Renewal of Listings.

- a) Listings shall be ~~removed from the MLS database~~ changed to the appropriate off-market status on the expiration date specified on the listing unless the listing is extended or renewed by the Listing Broker.
- b) The Listing Broker shall obtain written authorization from the seller(s) before filing any extension or renewal of a listing.
- c) Any renewals or extensions received after the expiration date of the original listing shall be treated as a new listing and will be subject to any fees applicable to new listings.
- d) The calculation of Days on Market (DOM) is based on the MLS #. The calculation of Cumulative Days on Market (CDOM) is based on APN # or address and will accumulate until a change of ownership has occurred or the property is not available for sale and no Listing Agreement is in effect for a period of 90 days or more.
- e) At any time and for any reason, the MLS has the right to request a copy of the seller's(s') written authorization to extend or renew a listing. If a Listing Broker is requested to provide a copy of such authorization and does not do so within 1

business days of the request, the listing shall be subject to immediate removal from the MLS.

Rule 7.22.1 Extension for Protected Buyer.

- a) In the event a listing broker's listing has Expired or been Canceled, but a commission extension right for a protected buyer has been timely activated in the listing agreement and listing broker represents seller in said transaction, listing broker may be considered the "listing broker" for MLS reporting of sale as long as satisfactory documentation is presented to MLS.

9.4 Presentation of Offers. The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. If a seller(s)/landlord(s) has directed that offers from cooperating brokers are not to be presented for any length of time, seller's direction authorizing such arrangement shall be in writing and listing broker shall provide clear and accurate notice of the date of presentation of offers to Participants and Subscribers in the MLS. In the event a listing broker will not be participating in the presentation of offers, the listing broker shall clearly indicate this fact in the listing information published by the service.

9.5 Submission of Offers and Counter-Offer. The listing broker shall submit to the seller/landlord all offers until closing unless precluded by law, governmental rule or expressly instructed in writing by the seller/landlord otherwise. If requested by cooperating broker in writing, listing broker shall provide cooperating broker with listing broker's written verification that cooperating broker's offer was presented (or a written notification that the seller has waived the obligation to have the offer presented), said verification to be provided to cooperating broker within 3 days of cooperating broker's written request. The cooperating broker acting for buyer/tenant, shall submit to buyer/tenant all offers and counter-offers until acceptance.

Rule 10.1 Statuses

The definition of Hold to be: "A valid listing contract is in effect ~~however but, Seller has instructed Listing Broker in writing that no offers shall be presented to Seller. This instruction may be due to because of~~ various reasons such as multiple quality offers already received, repairs, illness, guests, etc. ~~the seller has requested that temporarily there be no showings.~~ This is an Off-Market status."

Rule 10.2 Reporting of Sales

- a) Listings with accepted offers shall be reported to the MLS or input into the MLS database as "pending" or "active under contract" within 2 business days of the acceptance by the Listing Broker unless the negotiations were carried on under Section 9.1 (a) or (b), in which case, the Cooperating Broker shall notify the listing broker of the "pending" or "active under contract" status within 2 business days after acceptance, whereby the Listing Broker shall then report or input the status change to the MLS within 2 business days of receiving notice from the Cooperating Broker.
- b) The listing shall be published on the MLS as "pending" or "active under contract" with no price or terms prior to the final closing.
- c) Upon final closing, the Listing Broker shall report or input the listing in the MLS as "sold" and report the selling price within 2 business days of the final closing date unless the negotiations were carried on under Section 9.1 (a) or (b), in which case, the Cooperating Broker shall notify the Listing Broker of the "sold" status and selling price within 2 business days after the final closing date, whereby the Listing Broker shall then

report or input the status change and selling price to the MLS within 2 business days of receiving notice from the Cooperating Broker.

- d) Listings which were not input into the MLS as a result of the seller's(s') instructions may be input into the MLS "sold" data at the Listing Broker's option, however, listings which were input into the MLS but subsequently withdrawn must still be reported under this section if the seller is represented by the Listing Broker when it closes.
- e) The MLS may accept the reporting of sales information solely for comparable purposes about other properties which were not otherwise eligible for input into the MLS but are located in the MLS's service area and "sold" by a MLS participant and/or subscriber who represented a party in the transaction (i.e. broker who represented the seller or broker who represented the buyer), as long as such reporting is authorized by a party in the transaction to the broker who represented it, (if requested by the MLS documentation must be presented to MLS within 2 business days), and the circumstances of the representation are disclosed on the Service by the reporting participant or subscriber. Any submission of sales information must occur within 2 business days after close of escrow.

12.10 False or Misleading Advertising and Representations; True Picture Standard of Conduct. Participants and Subscribers may not engage in false or misleading advertising, including, but not limited to, advertisements or representations regarding the Participant's or Subscriber's relationship to the MLS, about the MLS itself, or about any property listed with the MLS. MLS Participants and Subscribers shall present a true picture in their advertising and representations to the public, including internet content, images and the URLs and domain names they use, and Participants and Subscribers may not:

12.10.1 Engage in deceptive or unauthorized framing of real estate brokerage websites;

12.10.2 Manipulate (e.g., presenting content developed by others) listing content and other in any way that produces a deceptive or misleading result, ~~or otherwise misleads consumers;~~ or

12.10.3 Deceptively use metatags, keywords or other devices/methods to direct, drive or divert Internet traffic, ~~or to otherwise mislead consumers.~~

12.10.4 Present content developed by others without either attribution or without permission; or

12.10.5 Mislead consumers, including use of misleading images.

12.11 Use of MLS Information. In recognition that the purpose of the MLS is to market properties and offer compensation to other Broker Participants and R.E. Subscribers for the sole purpose of selling the property, and that sellers of properties filed with the MLS have not given permission to disseminate the information for any other purpose, Participants and Subscribers are expressly prohibited from using MLS information for any purpose other than to market property to bonafide prospective buyers, and to support market evaluations or appraisals as specifically allowed by Sections 12.14, 12.15 and 12.16. MLS information may also be used to develop Statistics, Market Condition Reports, and Broker or Agent Metrics. Any use of MLS information inconsistent with these sections is expressly prohibited. Nothing in this section, however, shall limit the MLS from entering into licensing agreements with MLS Participants and Subscribers or other third parties for use of the MLS information.

Rule 12.8.1(b) Listing Attribution. All On-Market listings in the “Neighborhood Market Report” must identify the name of the listing firm(s) and the name of the listing agent(s) in a manner designed to easily identify such listing firm(s) or agent(s). Such identification shall be in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.

The remainder of the revisions set forth throughout the rules incorporate newly adopted C.A.R. sponsored “clean-up” statutory changes made to California Real Estate Law [AB 1289 (CA Civil Code) and AB 2884 (CA B&P Code)]. Adoption is mandatory as the statutory changes in the law go into effect January 1, 2019.

Changes made to the law include technical corrections, revised and updated terminology and procedures and modified statutory structure and references. The most notable of those impacting the MLS Rules are as follows:

- "Selling agent" or "cooperating agent" – now termed "buyer's agent";
- "Exclusive agency listing" – now termed "seller reserved listing agreement";
- "Open listing" – retains the same basic definition (which is no exclusive rights for a listing agent and a commission due only if the listing agent procures an enforceable offer from the buyer), but no longer grants a statutory exception to the MLS requirement that all listings make an offer of compensation in the MLS;
- Various additional corrections and modifications spurring altered language in the Rules to synch with the new laws. These are all non-substantive changes and are to terminology only.