
BROKER ADVISORY - LISTING CONTRACTS AND OFFERS OF COMPENSATION

1 message

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Broker Advisory: LISTING CONTRACTS & OFFERS OF COMPENSATION

**Tuesday,
July 30, 2024**

Hi, GO-ers!

As a result of the NAR lawsuit settlement agreement, effective August 1, 2024, offers of compensation to a buyer broker are prohibited on the MLS. This Broker Advisory summarizes Good Oak's requirements regarding this change.

New rules and forms:

Offers of compensation to a buyer broker are prohibited on the MLS, and no compensation information of any kind can be in the MLS in any field. This includes documents and addenda regarding compensation, which must not be uploaded to the MLS.

New and revised AAR forms are scheduled for release on August 1, 2024. This includes revised Listing Contracts and Listing Contract Addendum plus a new Unrepresented Buyer Disclosure.

Buyer-broker compensation from seller:

AAR Seller Compensation Addendum:

If seller elects to authorize an offer of compensation to a buyer broker as specified in the listing contract, the compensation to be paid by seller to buyer broker shall be reflected in the Seller Compensation Addendum to the purchase contract. The Seller Compensation Addendum can be incorporated into a purchase contract via an offer, counter offer, or addendum.

If seller elects not to offer compensation to a buyer broker in the listing contract, this does not preclude seller from agreeing to pay buyer-broker compensation in the Seller Compensation Addendum.

Broker-to-broker compensation forms are not allowed:

As added protection when representing a buyer or a seller, and to reduce liability, Good Oak Agents ("Agent") are NOT allowed to use the AAR Compensation Agreement Between Brokers form (being released August 1st) or any other brokerage's broker-to-broker or seller-to-broker/agent compensation form (except in commercial transactions, where customary).

Should Agent commit seller to a situation where buyer-broker compensation is owed to more than one buyer broker in a transaction (for instance, through use of another brokerage's form), Agent (not Good Oak) will be liable for any compensation owed.

Do NOT upload the Seller Compensation Addendum to the MLS. Again, offers of compensation to a buyer broker are prohibited from the MLS and no compensation information of any kind can be in the MLS in any field.

Unrepresented Buyer:

When working with an unrepresented buyer, seller's Agent is to use the Unrepresented Buyer Disclosure (being released August 1st). As noted in this form, buyer should review and sign the Real Estate Agency Disclosure and Election (READE) form. Agent will provide the READE form to unrepresented buyer, with "represent the Seller as Seller's Broker" checked under the Buyer or Tenant Election section.

Listing Contract Addendum:

When changes need to be made to the listing contract, Agent is to use the Listing Contract Addendum (new version released August 1st).

The Listing Contract Addendum includes options for cancellation and for changing the expiration date, among other things. Therefore, the

Listing Contract Acceleration Agreement, a Good Oak form, will no longer be needed to cancel a listing contract.

Execution of the ARMLS Sold/Change Form is still required.

Offers of Compensation on Good Oak's website:

Active Listings

Instead of Good Oak's staff automatically adding current offers of compensation to Good Oak's website, Agent is required to first obtain written instruction from seller.

If seller does not wish to advertise the compensation on Good Oak's website, no further action is required.

If seller does wish to advertise the compensation on Good Oak's website, **please read on for instructions:**

- Using the Listing Contract Addendum, Agent can use the following language as instruction from seller:
 - "Owner instructs Agent to advertise the offer of compensation to buyer broker on Good Oak Real Estate's website."
- Once the written instruction is complete and in Agent's Paperless file, Agent can enter the compensation offered to buyer broker [HERE](#) (see more info below).

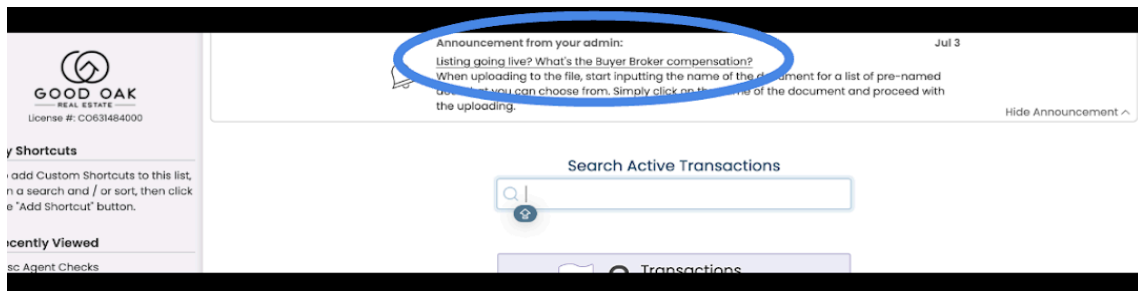
Future Listings

- For listing contracts starting August 1, 2024, and moving forward, Agent can use language as follows in the Additional Terms and Conditions section of the listing contract:
 - "Owner instructs Agent to advertise the offer of compensation to buyer broker on Good Oak Real Estate's website."
- Once the written instruction is complete, in Agent's Paperless file, AND the listing is Active in the MLS, Agent can enter the compensation offered to buyer broker [HERE](#) (see more info below).

How to submit offer of compensation to be advertised on Good Oak's website once Agent's listing is ACTIVE:

1. Reminder: Agent must first have written instruction from seller.

2. Fill out this form ([LINKED HERE](#)), which will be located in GoodOakHQ.com and in Paperless Pipeline as shown below:



This FORM should only be filled out once Agent has written instruction from seller AND the listing is ACTIVE in the MLS.

BUYER BROKER

COMPENSATION

ONLY FOR ACTIVE LISTINGS

Listing Buyer Broker Compensation

In order for us to update our website with the Buyer Broker Compensation that is being offered, **FIRST** be sure you have written instruction from your clients **AND THEN** please fill out the following form **ONLY** once your listing is **ACTIVE** ("Coming Soon" is not considered "Active").

FAQs

Q1 - Do existing listing contracts need to be replaced with the revised listing contract?

A1 - No, however, Agent must discuss with seller the removal of buyer broker compensation from the MLS and consult with seller about advertising the offer of compensation moving forward.

Q2 - After discussion with seller, is it okay to replace the existing listing contract with the revised listing contract if the property is not yet under contract?

A2 - Yes, as long as (1) the existing listing contract is cancelled (use the Listing Contract Addendum), (2) the current listing in the MLS is cancelled, (3) a new MLS Input Form is executed for the new listing, and (4) the paperwork, including the new MLS listing plano, is uploaded to Agent's file in Paperless.

Q3 - Can the seller offer no compensation to buyer broker in the listing contract and still accept an offer with a Seller Compensation Addendum that includes compensation for buyer broker?

A3 - Yes.

Q4 - What ways can Agent advertise an offer of compensation for Agent's listing to buyer broker?

A4 - Aside from Good Oak's website, Agent can display an offer of compensation on Agent's personal website, sign rider, and property specific marketing materials. If in doubt, check with Brokers. Agent **cannot** advertise on any site that displays offers of compensation from multiple brokers.

Q5 - Can the Seller Compensation Addendum be countered?

A5 - Yes, using a Counter Offer form.

Forms Flow:

A "Forms Flow" chart is attached for reference.

Should you have any questions, please let me know.

Thank you!

Mary Ann Shryack
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 **Forms Flowchart.pdf**
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