
BROKER ADVISORY - BUYER-BROKER AGREEMENTS & POLICY CHANGES

1 message

Mary Ann Shryack <maryann@goodoakaz.com>
Reply-To: Mary Ann Shryack <maryann@goodoakaz.com>
To: torey@goodoakaz.com

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Broker Advisory: BUYER-BROKER AGREEMENTS AND POLICY CHANGES

Friday,
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Hi, GO-ers!

One of the changes from the NAR lawsuit settlement agreement is that agents working with a buyer must enter into a written agreement before touring a home. This Broker Advisory summarizes Good Oak's requirements regarding this change.

If you attended Good Oak's forms training on July 22nd or 23rd, please note there have been several changes since then, which are reflected in this advisory.

Please note: BBA herein refers to the AAR Buyer-Broker Exclusive Employment Agreement, AAR Buyer-Broker Agreement to Show Property, and Tenant-Broker Exclusive Employment Agreement.

New rules and forms:

Beginning August 1, 2024, when working with a buyer and before touring a home, Good Oak agents ("Agent") MUST have an executed AAR Buyer-Broker Exclusive Employment Agreement or the AAR Buyer-Broker Agreement to Show Property in place. For more

information about what it means to be “working with” a buyer and what it means to tour a home, [click here to see NAR FAQs #56 and #57](#).

When working with a tenant and before touring a home, Agent MUST have an executed Tenant-Broker Exclusive Employment Agreement in place.

New and revised AAR forms are scheduled for release on August 1, 2024. This includes the Buyer-Broker Exclusive Employment Agreement, Buyer-Broker Agreement to Show Property, Tenant-Broker Exclusive Employment Agreement, and Buyer/Tenant Employment Agreement Addendum. Be sure to update your templates in TransactionDesk with the new/updated forms.

Broker Compensation in BBA:

Agent may not receive compensation for services from any source that exceeds the amount agreed to in the BBA.

Negotiate your value up front in the BBA. Best practice is NOT to amend the Broker Compensation agreed to in the BBA if seller's offer of compensation is greater than the Broker Compensation in the BBA. Amending the Broker Compensation upward is in conflict with your fiduciary to your buyer client since the balance is to be credited to buyer. Agent can amend the Broker Compensation in the BBA downward.

Be sure to notify the lender upon acceptance of an offer of any Broker Compensation being paid by buyer.

Buyer-broker compensation from seller:

The Seller Compensation Addendum (being released August 1st) to the purchase contract may be used to request compensation from seller for broker representing buyer. This form is submitted with the offer; be sure to check "Seller Compensation" in the Addenda Incorporated section of the purchase contract when using the Seller Compensation Addendum.

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

When representing the buyer, the BBA and Seller Compensation Addendum are the forms to be used for buyer-broker compensation.

Remember, any compensation offered to buyer broker on brokerage websites, sign riders, etc. is advertising. Use the Seller Compensation Addendum as part of the offer for written agreement of the advertised compensation.

If you currently have a BBA in place:

1. REPLACE: Any BBAs currently in place will need to be replaced with the August 2024 revision once released.
2. CANCEL: The existing BBA must be cancelled; the new Buyer/Tenant Employment Agreement Addendum (being released August 1st) can be used for this.

Submittal of BBA to Good Oak:

1. BBAs must be submitted to the Broker within 5 days after execution, whether or not buyer has entered into a purchase contract.
2. Send the BBA to documents@goodoakaz.com if buyer has not yet entered into a purchase contract. DO NOT OPEN A FILE IN PAPERLESS PIPELINE ("PAPERLESS") ONLY FOR THE BBA.
3. If buyer has entered into a purchase contract and a file has been opened in Paperless, upload the BBA to the Paperless file. If the Paperless file for the purchase contract is not opened within 5 days after execution of the BBA, send the BBA to documents@goodoakaz.com to ensure the BBA is submitted to the Broker on time.
4. **If the BBA is not submitted within 5 days after execution, the late fee schedule will apply.**

Penalties for non-compliance:

Penalties from the MLS for not using a BBA include significant fines and/or suspension from the MLS. Any fines charged to the Agent or to Good Oak as a result of Agent violating MLS rules will be paid by the

Agent. Please review the updated Penalty Policy for any MLS to which you subscribe. [Click here](#) for the red line Penalty Policy for ARMLS.

In addition to MLS penalties, Good Oak will have strict policies in place in its Broker Policy Manual regarding use of the BBA and a corresponding penalty structure.

Open house, sign calls, Agent coverage:

Q1 - If Agent holds an open house on their listing or another Good Oak Agent's listing, is Agent required to enter into a BBA with those buyers touring the home?

A1 - No, a BBA is not required because Agent is performing work for the seller, not for the buyer. If buyer wants to see any other homes, a BBA is required before showing (be sure to first check if buyer already has an exclusive BBA in place with another agent and/or brokerage).*

Q2 - If Agent gets a sign call on their listing and buyer wishes to see that home, is a BBA required before showing it?

A2 - No, a BBA is not required because Agent is performing work for the seller, not for the buyer.*

Q3 - Agent 1 has a listing. Agent 2 is covering Agent 1's business while Agent 1 is on vacation. Buyer asks to see the home listed by Agent 1. Is a BBA required for Agent 2 to show the home?

A3 - No, a BBA is not required because Agent 2 is performing work for the seller, not for the buyer.*

Q4 - Agent 1 has a BBA and is unavailable to show a home to their client and asks Agent 2 to do the showing. Is a BBA required for Agent 2?

A4 - No, as long as Agent 1's BBA includes language addressing that other Agents may show on behalf of Agent 1. We will add such language to the Clause Library in goodoakhq.com.*

**NOTE: The minute Agent begins to work with a buyer and takes that buyer to tour a home, a BBA is required.*

For additional FAQs, [click here](#).

Upcoming updates:

1. The Broker Policy Manual is being updated for this and other changes, and Agent will be notified once the update is available.

2. Additional Broker Advisories to follow with information regarding listing agreements and how offers of compensation may be advertised on Good Oak's website.

If you have any questions, please let me know.

Thank you!

Mary Ann Shryack
Designated Broker
480-390-1444

