

# MLS & Rules Committee

## Agenda / Action Items



**Date:** 8/17/2023

**Time:** 1pm

**Locati** LBOR Office

**Co-Chairperson:** Cheri Drake

**Co-Chairperson:** Taylor LaRue

**Staff Liaison:** Linda Manley & Rob Hulse

### Committee Members:

Cheri Drake	Taylor LaRue	Bailey Stuart	Beth Ham
Chris Earl	Greta Carter-Wilson	Jill Ballew	Katie Moore
Libby Grady	Lindsay Landis	Michelle Roberts-Freeman	Nicholas Lerner
Ryan Desch	Vanessa Schmidt	Zach Dodson	

**P - Present**

**E - Excused Absence**

**A - Absent**

Guests (non-Quorum)

### AGENDA ITEMS

No	Topic	Done	Notes/Update
1	<b>Review Previous Meeting Minutes from 07/20/2023</b>		
2	<b>Update from LMLS Staff</b>		
	a. While NAR Defends Lawsuits, major MLS removes requirement for Offer of Compensation in the MLS.		
	b. Consider addition to Buyer Agency Agreement obligating Buyer to Pay for Inspection Costs incur. No protection of Agent in the existing Buyer Agency Agreement.		
	c. Consider Service Change Request to implement plan for Exclusive (Limited Visibility Type) Sold Statuses.		
3	Discuss Contingency on the Sale/Closing of Buyer's Property form and Notice to Remove the Contingency for the Sale/Closing of Buyer's Property.		
4	Committee to consider a member request: Prepare an Amendment or Addendum to the Buyer Agency Agreement?		
5	Consider addition to Buyer Agency Agreement obligating Buyer to Pay for Inspection Costs incurred. No protection of Agent in the existing Buyer Agency Agreement.		
6	Consider Tabled Topics?		
	a. Readily Available to Show.		
	b. Fair and Equal Access for all.		
	c. Is there such a thing as a Residentially Zoned Single Family property with an Ancillary Unit - If so, new fields needed?		
	d. Define "Reasonably Prominent" in IDX Rules.		

No	Topic	Presenter	Done	Notes/Update
7	Next Meeting: _____			
8				
9	Adjourn:			

### MLS & RULES COMMITTEE ACTION ITEMS

No	Action	Due Date	Responsible Member	In Process	Done	Notes/Update
	Communicate Web API conversion timeline to MLS Vendor of IDX, VOW, and BO services.	07.20.2023	LMLS Staff - Rob		√	Deadline of 8/1, with RETS disabled for IDX, VOW, & BO by 10.01.2023.
	Create a new Detail Report specific to feedback provided by Appraisers.	In Appraiser's Hands at this time.	Member Appraiser and LMLS Staff	√		Waiting on the Appraiser for noted changes.
	Troubleshoot with Paragon Support: Issue with new SOLD statuses for Agent/Office/Firm exclusive.	07.20.2023	LMLS Staff - Rob and Paragon Support		√	Consider SCR to fix implementation of Exclusive Sold Statuses.
	Remove Contingent Badge from Active/Kick Out Clause status at Realtor.com	6.29.2023	Realtor.com has opened a ticket to process this request.		√	Done
	Remove Pinckney and Broken Arrow Elementary Schools from Paragon. Discuss Paragon Support and possible rule to the field.	6.29.2023	Keeping both schools visible in Paragon, but not available for input		√	Listing again will get an error message at input: "This school was closed by USD497 in May of 2023."
	Prepare a Video Tutorial about the Auto Hotsheet and send out in newsletter.	6.29.2023	Included in most recent newsletter.		√	A simple screen shot doc was also provided.
	Staff to ask Paragon Support about what exactly is triggered by DOM and DOMLS.	6.29.2023	Sent to Committee on 06.09.2023.		√	Discussion included on the 06.29.2023 Agenda.
	Newly expanded fields in Paragon are not displaying properly on sites still using RETS for IDX, or MLS Syndication.	6/9/2023	Staff is monitoring IDX sites supported by IDX Broker.	√		Problem isolated to Brokers using IDX Broker via RETS.
	Paragon Range Field for Approximate Fin SqFt is not working correctly (from Zach ).	6/9/2023	LMLS Staff - Rob		√	Reached out to Paragon on 6/7/2023.
	HomeSnap Pro: Photos not pulling through to the HomeSnap App (from Bailey).	6/9/2023	LMLS Staff - Rob		√	Reached out to HomeSnap on 6/7/2023.

No	Action	Due Date	Responsible Member	In Process	Done	Notes/Update
	HomeSnap Pro: Searching for Acres appears to be broken in the HomeSnap App (from Bailey).	6/9/2023	LMLS Staff - Rob		√	Reached out to HomeSnap on 6/7/2023.
	Investment Property Rider to the Seller's Property Condition Disclosure to DocuSign, Dotloop, and in Paragon Contracts & Forms	4/28/2023	LMLS Staff - Rob		√	Sent to Brokers. Uploaded in Paragon. Sent to Dotloop and DocuSign.
	Smart Home Rider to the Seller's Property Condition Disclosure to DocuSign, Dotloop, and in Paragon Contracts & Forms	4/28/2023	LMLS Staff - Rob		√	Sent to Brokers. Uploaded in Paragon. Sent to Dotloop and DocuSign.
	List of IDX Websites Published Online	6/1/2023	LMLS Staff - Rob		√	Published on LBOR Site at Members > MLS
	Create a FAQ for the Clear Cooperation Policy.	6/1/2023	LMLS Staff - Rob	√		Work in progress...Do's and Don't's list to be
	Prepare videos and tutorials for new Paragon Changes roll out. A page on LBOR Site will include all video and tutorials.	4/25/2023	LMLS Staff - Rob		√	Prepare ahead of cutover to newly updated fields.
	Work with Realtor.com to map field to Open House Hosted by on their site	1/25/2023	MLS Staff - Rob		√	Open House information is included in the data feed to Realtor.com
	Prepare a Training Video for new fields	4/21/2023	LMLS Staff - Rob		√	Collaborate with Ed
	Paragon Changes /Conversions of Fields	4/24/2023	LMLS Staff - Paragon		√	Cutover on for April 24th.
	Set up testing group for Paragon Changes/Conversions of Fields	February 23rd (subject to pace of work by BK)	LMLS Staff - Rob / Paragon Support		√	Testing completed on April 11th
	Create a Smart Home Turnover form as an Addendum to the Seller's Disclosure	1/25/2023	Lindsay Landis		√	Two versions for review on March 27th.
	Present for approval - a Multi-Family Property Condition Disclosure Rider	1/25/2023	Zach Dodson		√	To be presented for approval at the
	Provide Brokers with updated LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement (red-lined and clean)	1/23/2023	LMLS Staff - Rob		√	Completed on 1/23/2023.
	Change Status of Withdrawn/Cancelled and Cancelled/Cancelled to Off Market/Withdrawn and Off Market/Cancelled.	1/25/2023	Rob/Paragon Support		√	Completed on 1/23/2023.

No	Action	Due Date	Responsible Member	In Process	Done	Notes/Update
	Add fields to Residential Class to gather rental information: Is the Property Rented? Lease Expiration? Rent Amount?	1/25/2023	Rob/Paragon Support		√	Updating the Residential Class on 1.24.2023
	Update the LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement at Dotloop.	2/6/2023	LMLS Staff - Rob		√	Completed on 02/10/2023.
	Update the LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement at DocuSign	2/6/2023	LMLS Staff - Rob		√	All Docs Delivered to DocuSign, and waiting for library update & build out.
	Release to all Members the Updated LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement	2/6/2023	LMLS Staff - Rob		√	Added to Paragon MLS Docs on 02.09.23, Dotloop on 02.10.23, and waiting on DocuSign.
	HERS Rating (Home Energy Rating System) as an MLS Field a. HERS Rated: Yes/No b. HERS Year: _____ c. HERS Rating: _____		LMLS Staff - Rob		√	Approved by Bd of Directors on February 1, 2023. Updated in Paragon on 02.13.2023

Tabled or Old Business	Due Date	Responsible Member	Notes/Update
1.a Readily Available to Show, the NAR, and the Clear Cooperation Policy. NAR feedback - new listing information in put into MLS meets the criteria for Cooperation, rather than having immediate access for showings.	Consider returning this to the regular agenda.		Current Policy is that Listed Property be readily available to show = within 1 business day to be consistent with the CCP.
1.b Fair & Equal Access to Listed Property. This policy was originally proposed to the LBOR Board of Directors in 2022.	Consider returning this to the regular agenda.		The LBOR Board of Directors sent this itme back to the MLS & Rules Committee for more
2 Two-Unit Property on a Single Lot - Accessory Dwelling Units vs Duplex. New category in Multi-Family, and/or New field in Residential for an Ancillary Unit.			No action was taken on this at the first discussion, although the relavancy and number of Ancillary Dwelling Units is growing.
3 Update from IDX Subcommittee to establish a definition for "reasonably prominent" in IDX Rules.		Subcommittee members are: Nicholas Lerner, Cheri Drake, Drew Deck, Tanya Kulaga, Jill Ballew, Michelle Roberts-Freeman, Victoria Perdue, and Lindsay Landis.	

# MLS & Rules Committee

## Meeting Minutes



**Date:** 06.29.2023  
**Time:** 1pm  
**Locati** LBOR Office

**Co-Chairperson:** Cheri Drake  
**Co-Chairperson:** Taylor LaRue  
**Staff Liaison:** Linda Manley & Rob Hulse

### Attendees:

<b>P</b> Cheri Drake	<b>P</b> Taylor LaRue	<b>P</b> Bailey Stuart	<b>P</b> Beth Ham	<b>P</b> Chris Earl
<b>E</b> Jill Ballew	<b>P</b> Katie Moore	<b>E</b> Libby Grady	<b>P</b> Lindsay Landis	<b>E</b> Michelle Roberts Freeman
<b>P</b> Nicholas Lerner	<b>P</b> Ryan Desch	<b>P</b> Vanessa Schmidt	<b>P</b> Zach Dodson	

**P - Present**                      **E - Excused Absence**                      **A - Absent**                      **AL - Arrived Late**                      **LE - Left Early**

**Guests (non-Quorum)**                      Erin Maigaard and Amanda Barclay

### AGENDA MINUTES

No	Topic	Presenter	Done	Notes/Update
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**1 Review Previous Meeting Minutes from 06/29/2023**

After review, it was moved and 2nd to approve the previous meeting's minutes. Motion Passed.

**2 Update from LMLS Staff**

- a. Staff informed the Committee that the Board of Directors approved of the request that the MLS & Rules Committee Administer to a 3rd Offence. The Board of Direcotrs will hear appeals.
- b. Next, the Committee was provided with feedback from a Member Appraiser who has offered to help create a new Appraiser Detail with the fields located in an order that works well for appraisers. No action has been taken at this time.
- c. Staff informed the Committee of the Board of Director vote specific to a change from Days on Market to Days on MLS for the Market Monitor.

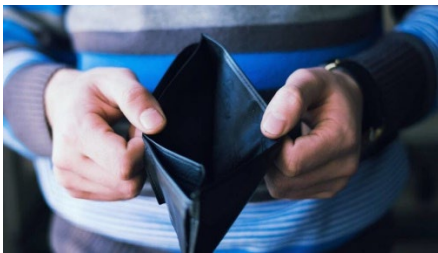
**3 Next, the Committee considered changes to the Sale of Residency Contingency Form. At question what whether or not a one-size-fits-all will work, or whether a separate contingency form is needed for a Buyer's Property Under Contract & a Buyer's Property NOT under Contract. The Committee reached a consensus to split the Contingency into two (2) separate forms, for each situation. Staff will prepare a draft for the next meeting that captures the changes to each form, when splitting the two.**

Having reached the end of the meeting, the Committee meeting was adjourned.

Meeting was adjourned at 2:30pm, with the next meeting day and time scheduled for July 20th at 1:00 pm.

# Bright MLS breaks with NAR policy on commissions

Starting Aug. 9, the nation's 2nd-largest MLS will allow listing brokers to offer buyer brokers nothing in compensation, according to an announcement from Bright



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BY [ANDREA V. BRAMBILA](#)

July 20, 2023

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[Bright MLS](#), the nation's second-largest multiple listing service, is breaking with a controversial [National Association of Realtors](#) policy that requires listing brokers offer [commissions](#) to buyer brokers in order to submit listings to Realtor-affiliated MLSs.

On Wednesday, Bright — with more than 100,000 subscribers in six states in the mid-Atlantic region — [announced](#) on its website that starting Aug. 9 it would allow listing brokers and agents to enter any amount in a listing's cooperative compensation fields, including zero. Previously, the fields required an offer of compensation of at least one cent.

“We are making this small change to underscore the complete flexibility of Bright subscribers to engage in transparent negotiations with their clients,” the announcement reads. “Bright wants to confirm subscribers' flexibility and the transparency and clarity of the cooperative compensation being offered through Bright's MLS. Bright has always offered flexibility and has never specified a cooperative compensation amount.

“With this update, a listing agent will continue to be able to enter the cooperative compensation amount agreed upon with their seller client, from zero and up, and continue to negotiate compensation at their client’s direction.”

Bright’s announcement notes that the contracts and forms its subscribers currently use will continue to work the same way and that subscribers “will continue to be able to make impartial, blanket offers of cooperative compensation to every buyer’s broker. This is not going away.”

Bright’s rule change, almost certainly the first among Realtor-affiliated MLSs, raises the question of whether other such MLSs will follow suit. The move comes as antitrust lawsuits attacking NAR’s commission policy are heating up.

Two bombshell lawsuits filed in 2019, known as [Moehrl](#) and [Sitzer/Burnett](#) after their lead homeseller plaintiffs, have both [gained class-action status](#) and the latter is currently set to [go to trial](#) in October. Bright is one of 20 MLSs named as a co-conspirator in the Moerhl suit, though no MLS has been named as a defendant in either of the two bombshell suits.

At the end of June, MLS PIN, a broker-owned MLS based in the Northeast, [settled](#) another antitrust suit (Bauman/Nosalek) filed by homesellers who objected to the rule, in part by agreeing to change a rule similar to the NAR commission rule. MLS PIN’s rule change will make the offering of compensation to buyer brokers optional, similar to [changes broker-owned Northwest MLS](#) has adopted.

Going by NWMLS’s experience, Bright’s move is unlikely to change how or how much buyer agents in its market area get paid. At NWMLS, between October 2019 (when offering commissions to buyer brokers became optional) and March 2022, 99.2 percent of NWMLS listings continued to offer a buyer broker commission (flat from 99.3 percent before the rule was eliminated). Virtually all, 94.5 percent, offered a cooperative commission above 2 percent.

NWMLS is not affiliated with NAR. Bright, like the vast majority of the 522 MLSs in the U.S., is Realtor-association-owned, counting [43 local Realtor associations](#) as shareholders. Local Realtor associations are governed by NAR rules. If Realtor associations don’t follow NAR rules, they risk losing their charter.

If Realtor-affiliated MLSs don't follow NAR rules, they risk losing their NAR-provided professional liability insurance.

"We don't believe this will impact Bright's relationship with NAR," a Bright MLS spokesperson told Inman in an emailed statement. "Bright is making an independent business decision responsive to the needs of our subscribers – and the consumers they serve."

Asked whether Bright MLS is the first Realtor-affiliated MLS to make this change and whether the change has anything to do with the commission-related antitrust lawsuits, Bright did not respond.

Inman has reached out to NAR for comment and will update this story if a response is received.

NAR's Handbook on Multiple Listing Policy requires that when a property is entered into the MLS, "participants make blanket unilateral offers of compensation to the other MLS participants and shall therefore specify on each listing filed with the service the compensation being offered by the listing broker to the other MLS participants."

The handbook adds, "Multiple listing services shall not publish listings that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount, nor shall they include general invitations by listing brokers to other participants to discuss terms and conditions of possible cooperative relationships."

[Bright's current rule](#) regarding commission offers [states](#), "Each listing must include the compensation unconditionally and unilaterally offered to a Cooperating Broker. While the offer must be a positive value, Bright does not set or suggest compensation values or the cooperative division of compensation." The requirement that the offer be a "positive value" will presumably change come Aug. 9.

All of the franchisor defendants have a presence on [Bright's board of directors](#) through their franchisees, making up about half of the 29 directors.

*Editor's note: This story has been updated with a comment from Bright.*



# NAR 'confident' in the face of challenges to compensation

The association believes it will prevail in court, but also “highly encourages agents to use buyer broker agreements.”

[AJ LaTrace](#)

July 21, 2023

3 minutes

## Key points:

- NAR is facing major lawsuits that could have sweeping consequences for the current model of buyer agency.
- The association continues to express confidence that it will win in court but expects appeals regardless of the outcome.
- While not advocating for policy changes, an NAR spokesperson said it was “imperative that agents continue to express that commissions are set between brokers and their clients.”

The National Association of Realtors has had its hands full this year, juggling [consequential lawsuits](#), launching a [search for a new CEO](#) and managing [crises regarding alleged discrimination](#).

As the leading lobby group and trade association for real estate sales professionals, NAR is a force in D.C. and beyond — but an outcome against NAR in the [buyer broker commission cases](#) could impact the association's bottom line and will certainly dictate new rules and standards for the industry.

Despite the current pressure on the organization, NAR remains confident that the courts will rule in their favor — and even if they don't, expects appeals to follow — and maintains that the current system of buyer agent commissions is best for consumers. At least, this was the message from the organization's legal team shared by Mantill Williams, NAR VP of Communications.

"Our legal experts are confident we will ultimately prevail in each case because we act in the best interests of consumers, and the law and facts are on our side. The optimal scenario is for us to secure an immediate win in the trial," Williams said in an email. "However, it is highly likely that no matter which side prevails at trial, the losing side will appeal. That means a definitive ruling is not imminent and could take several years."

The two major commissions cases, Moehrl and Sitzer/Burnett, contend that the current buyer agency commission model is anticompetitive and bad for sellers. And there have been [calls to action from industry leaders](#) to start preparing for a future where agents need to discuss buyer exclusivity and compensation agreements with their clients from the get-go.

Separating the buyer's agent commission from the seller's agent commission and having consumers directly compensate their buyer agent is something that could become more of the norm regardless of the outcome of the class action suit, some suggest.

In its statement, NAR indicated that the organization is already in favor of agents procuring buyer agreements.

"NAR highly encourages agents to use buyer broker agreements and continue to express their value at every chance they get and ensure a transparent and mutually beneficial transaction," Williams said.

"It is imperative that agents continue to express that commissions are set between brokers and their clients, how much competition there is, and their value, at every chance they get. This has been a mantra for several years now, and there is no better job protection than to remind consumers of all the ways you help them navigate the legal, community and financial aspects of buying and selling a home," he added.

But at the same time, NAR also argues that the existing business model is good for consumers.

"Buyer agents provide essential guidance as consumers navigate the legal, financial and community aspects for what is the most important purchase they will likely make in their lifetime," Williams said. "We remain confident that the current model is pro-consumer and pro-competitive, as it provides buyers and sellers many choices about the brokers with whom they work — from how they are paid to specific expertise to customer service — all at market-driven prices."

# Seller Class Action Litigation

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## What's going on?

- NAR and 4 corporate (brokerage) defendants were sued in lawsuits filed in Missouri (plaintiff “Burnett”) and Illinois (plaintiff “Moehrl”) alleging commission rates are too high, buyer brokers are being paid too much, and NAR’s Code of Conduct and MLS Handbook along with the corporate defendants’ practices lead to price fixing. NAR and the corporate defendants adamantly disagree, and NAR’s rules are very intentionally pro-consumer and pro-competitive.
- While the Moehrl case is in earlier stages, Burnett is scheduled to go to trial in October 2023.

## What is NAR doing to prepare legally?

- NAR has the very best inside and outside legal teams in place to defend these very pro-consumer, pro-competitive rules and practices in local MLS broker marketplaces.
- Our legal experts are confident we will ultimately prevail in each case because we act in the best interests of consumers, and the law and facts are on our side.

## What are the key points we are making?

- We fundamentally disagree with how class action attorneys are characterizing our rules. At the heart of all this is that very much because of NAR’s rules and how well local MLS broker marketplaces function, consumers are better off and competition is able to thrive.
- The very reason NAR exists is because there was a need 100 years ago for a higher level of ethical practice in real estate – that’s where NAR came in. We want to make it very clear that:
  - REALTORS® look out for their clients above all else;
  - Compensation is set between brokers and their clients and is negotiable;
  - The free market and competition are encouraged by NAR; and
  - There’s incredible value in using a real estate agent, especially a REALTOR®, when you buy or sell your home.
- In fact, Article 1 of the NAR Code of Ethics requires a REALTOR® to “protect and promote the interests of the client.” NAR has a rule that negotiations are allowed at any time. NAR has rules that prohibit anti-trust behavior.

## What is NAR doing to address confusion in the marketplace?

- There is misinformation and lack of understanding about NAR, how local MLS broker marketplaces work and the value of REALTORS®, particularly by class action attorneys.
- NAR is regularly letting the media and people across real estate, academic, civic and business communities know how NAR, local MLS broker marketplaces and REALTORS® serve the best interests of American home buyers and sellers.

# Seller Class Action Litigation

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## What are resources for people to get more information?

- NAR developed the website [competition.realtor](https://www.competition.realtor) that hosts key points, FAQs, articles and infographics regarding how local MLS broker marketplaces enable consumer access and opportunity and foster competition as well as how REALTORS® are consumer champions.
- There is also [realestatecommissionfacts.com](https://www.realestatecommissionfacts.com) to aid consumers' understanding of broker services and how real estate professionals are compensated.

## What are the possible outcomes of the trial?

- The optimal scenario is an immediate win in the trial. Otherwise, one outcome is a monetary damage award against the defendants. Or there could be a court order changing NAR's policies or how commissions are paid to brokers.
- It is highly likely that no matter which side prevails at trial, the losing side will appeal. That means a definitive ruling is not imminent. It will be several years before we reach a conclusion.

## What is NAR doing to prepare for different outcomes?

- Sellers already sign contracts agreeing to what they will pay in commission to the sellers' agent. We also are continuing to encourage REALTORS® to use buyer broker agreements and be reminded of their obligations under the Code of Ethics to advise their clients and make all agreements in writing and clear and understandable.
- Just as NAR has been doing for years, it's also an imperative that REALTORS® continue to express that commissions are set between brokers and their clients, how much competition there is and REALTOR® value, at every chance they get. And remind consumers all the ways REALTORS® help them navigate the legal, community and financial aspects of buying and selling a home.

## What does all this mean for consumers?

- If NAR could not adopt pro-consumer rules that ensure client interests are primary and that make buying and selling real estate smoother, we would be forced back into the 19<sup>th</sup> Century "wild west" where unscrupulous people could regularly defraud clients.
- If local MLS broker marketplaces didn't work the way they do now, there would be no centralized source of available homes. Buyers would have to visit every broker in town to see all available homes. There would be outdated home status information. There would be fewer homes for buyers to choose from on real estate sites.
- We could expect over time for property information to become unverified, inaccurate and unreliable. Sellers would likely have to pay to list and advertise their properties on websites. Buyers unable to afford a buyer broker would have fewer options.

# Seller Class Action Litigation

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## How does this litigation affect brokerages and MLSs?

- NAR’s mission is “to empower REALTORS® as they preserve, protect and advance the right to real property for all.” And our vision is “to be a trusted ally, guiding our members and those they serve through the ever-evolving real estate landscape.”
- NAR rules enable local MLS broker marketplaces to operate in a way that businesses of all sizes – especially and including small businesses of which the vast majority of REALTORS® are – can participate, compete with each other and flourish.
- NAR is working to help others avoid the incredible cost, risk and time that comes with standing up for these pro-consumer rules and ways of doing business. NAR will always stand up for those things – we are the proxy for home sellers and buyers and pro-consumer ethics, rules and practices.
- We have a strong story to tell about how our rules for affiliated local MLS broker marketplaces serve consumer interests and competition and that the misinformation in the market has confused home buyers and sellers.

## What can I do?

- Each of us has a role to play in educating people about how local MLS broker marketplaces provide market-driven pricing and opportunity for consumers and level the business playing field. Each of us have important stories to tell about the value of REALTORS®. Every chance you get – in conversations, on your website, in the community – share that. And share materials from [competition.realtor](#) far and wide.
- Also, in addition to the longstanding practice of having listing agreements, every real estate agent can and should use buyer broker agreements. Also continue to remind yourself of your obligations under the NAR Code of Ethics to advise your clients and make all agreements in writing and clear and understandable.

## How does the July 2023 MLS PIN settlement in Massachusetts affect NAR’s case?

- Not at all. NAR is not part of that lawsuit, nor do we expect it to notably affect our compensation litigation. We remain confident our rules are legal and pro-consumer.
- Also worth noting is that MLS PIN admitted no wrongdoing, and the settlement does not definitively address the practice of listing brokers making offers of compensation to buyer brokers. In litigation against NAR, we are seeking outcomes that will protect this pro-consumer, pro-competitive practice and all members.

# EXCLUSIVE BUYER AGENCY AGREEMENT

This Agreement made and entered into by and between \_\_\_\_\_

as principal/purchaser (hereinafter referred to as "BUYER") and \_\_\_\_\_

as BUYER'S Broker (hereinafter referred to as "Broker"):

WHEREAS, BUYER is desirous of purchasing or leasing or otherwise acquiring certain real property located in the State of Kansas, provided, however, that this Agreement shall not cover the following specifically described type(s) of property (if any): \_\_\_\_\_

and WHEREAS, BUYER is desirous of engaging the Broker to act on BUYER'S behalf in the purchasing, leasing or otherwise acquiring real property; and WHEREAS, Broker is willing to help identify properties, negotiate on behalf of BUYER, (except where Transaction Brokerage occurs), represent and act on behalf of BUYER in the purchase, lease, or other acquisition of real property. NOW THEREFORE, for and in consideration of the mutual promises and in consideration of the remuneration herein set forth, the parties agree as follows:

1. TERM OF AGENCY: BUYER hereby engages the Broker and grants to Broker the exclusive right and authority to negotiate for the purchase, lease, or other acquisition of real property identified during the term of this Agreement, which shall begin on \_\_\_\_\_, 20\_\_ and shall continue until midnight on \_\_\_\_\_, 20\_\_.

2. BUYER'S RIGHT TO PROFESSIONAL COUNSEL: BUYER acknowledges and agrees that the purchase of real property encompasses many professional disciplines, and while Broker possesses considerable general knowledge, Broker is not expert in matters of law, tax, financing, surveying, structural conditions, hazardous material, engineering, etc. BUYER acknowledges that BUYER has been advised by Broker to seek professional expert assistance and advice in those and other areas of professional expertise. In the event that Broker provides to BUYER names or sources for such advice and assistance, BUYER acknowledges and agrees that Broker does not warrant or guarantee such services and/or products.

BUYER herein understands that outside legal and tax counsel is recommended. Comprehensive mechanical, structural and other inspections are recommended. If, at BUYER'S option and choice, BUYER decides not to conduct inspections or obtain tax and legal counsel on the Property before closing, then BUYER accepts the property in its present condition and will make no claim against this Broker, or agents, based upon the lack of tax or legal counsel or based on any known or unknown past, current, or future condition of the above property and/or its improvements including but not limited to latent or patent defects, repairs, or replacements.

3. BUYER'S ROLE: BUYER agrees to work exclusively with Broker and his/her associated salespersons during the term of this Agreement and assist Broker and associated salespersons in the process of identifying, negotiating and contracting to purchase, lease or otherwise acquire real property. BUYER agrees to conduct all negotiations for property of the type described above through Broker and to refer to Broker all inquiries received in any form from real estate brokers, salespersons, prospective sellers or any other source, during the time this Agreement is in effect.

4. BROKER'S AUTHORITY AND ROLE: Broker is hereby authorized to locate and present properties to BUYER, to present offers authorized by BUYER, to negotiate for acceptance of such offers and to negotiate (but the Broker shall not be obligated to negotiate) for the payment of all or a portion of Broker's commission herein under with the SELLERS of real property or persons working on behalf of the SELLERS. Broker agrees to: (A) meet with BUYER to discuss property objectives, requirements, possession time schedule, financial capability, acquisition strategies and other purchasing factors; (B) assist BUYER in locating and viewing available property suitable for purchase by BUYER; (C) assist BUYER in determining financial alternatives; (D) assist BUYER in obtaining available information of a material nature relative to desired property; and (E) assist BUYER in the process of identifying, negotiating, contracting, leasing, or otherwise acquiring property and in monitoring closing and time deadlines.

5. AGENCY RELATIONSHIP: BUYER acknowledges receiving the "Real Estate Brokerage Relationships" brochure. BUYER understands that other potential BUYERS may consider, make offers on, or purchase through Broker the same or similar properties as BUYER seeks to acquire. BUYER consents to Broker's representation of such potential BUYERS



before, during and after the expiration of this Contract. In such a situation, Broker will not disclose to either BUYER the terms of the other's offer.

**Types of Brokerage Relationships:** A real estate licensee may work with a buyer or seller as a seller's agent, buyer's agent or transaction broker. The disclosure of the brokerage relationship between all licensees involved and the seller and buyer must be included in any contract for sale and in any lot reservation agreement.

**Seller's Agent:** The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent. In order to function as a seller's agent, the broker must enter into a written agreement to represent the seller. Under a seller agency agreement, all licensees at the brokerage are seller's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a seller's agent and the supervising broker of the designated agent functions as a transaction broker.

**Buyer's Agent:** The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent. In order to function as a buyer's agent, the broker must enter into a written agreement to represent the buyer. Under a buyer agency agreement, all licensees at the brokerage are buyer's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a buyer's agent and the supervising broker of the designated agent functions as a transaction broker.

**A Transaction Broker** is not an agent for either party and does not advocate the interests of either party. A transaction brokerage agreement can be written or verbal.

**6. BUYER'S ACKNOWLEDGMENT OF POTENTIAL FOR BROKER TO ACT AS TRANSACTION BROKER.** BUYER acknowledges that Broker may have clients who have retained Broker to represent them as a SELLER in the sale of property. If a BUYER client becomes interested in making an offer on SELLER client's property, then the Broker would become a Transaction Broker **unless designated agents have been appointed pursuant to paragraph 7.** A Transaction Broker Addendum to their Agency Agreements with the Broker must be signed by the BUYER prior to writing an offer to purchase the property and by the SELLER prior to signing the purchase contract. As a transaction Broker, Broker would **assist the parties with the transaction without being an agent or advocate for the interests of either party**, and would not, without prior consent of both parties, disclose any information or personal confidences about a party which might place the other party at an advantage.

**7. BUYER'S ACKNOWLEDGMENT OF POSSIBLE DESIGNATED AGENT RELATIONSHIP.** A designated agent is a real estate licensee affiliated with a Broker who has been designated by the Broker, or the Broker's duly authorized representative, to act as the agent of a Broker's BUYER or SELLER client to the exclusion of all other affiliated licensees.

**a. If a Designated Agent IS NOT appointed to represent BUYER, BUYER** understands that another licensee with the brokerage firm may act as a Designated Agent for a SELLER in whose property BUYER is interested. If this should occur, BUYER understands that:

- (1) The supervising Broker (or branch Broker, if applicable) will act as a Transaction Broker, or may appoint an affiliated licensee to act in the transaction as a Transaction Broker.
- (2) The designated agent for the SELLER will perform all of the duties of a SELLER'S Agent and will be the SELLER'S legal agent to the exclusion of all other licensees in the brokerage firm.
- (3) All other licensees affiliated with the firm will represent the BUYER in the purchase of SELLER'S property and will perform all of the duties of a BUYER'S Agent.

**b. If a designated agent IS appointed to represent BUYER, BUYER** understands that:

- (1) The Designated Agent will perform all of the duties of a BUYER'S Agent and will be BUYER'S legal agent to the exclusion of all other licensees in the brokerage firm.
- (2) Another licensee with the brokerage firm may act as a Designated Agent for the SELLER in the purchase of SELLER'S property.
- (3) The supervising Broker (or branch Broker, if applicable) will act as a Transaction Broker or may appoint an affiliated licensee to act in the transaction as a Transaction Broker.
- (4) If the Designated Agent for BUYER is also the Designated Agent of a SELLER in whose property BUYER is interested, the designated Agent cannot represent both SELLER and BUYER. With the informed consent of both BUYER and SELLER, the designated agent may act as a Transaction Broker.
- (5) If a BUYER client of a Designated Agent wants to see a property which was personally listed by the supervising Broker, the supervising Broker, with the written consent of SELLER, may specifically designate an affiliated licensee who will act as designated agent for SELLER.



8. BUYER consents to:

(Please initial below)

- a. Supervising/Branch Broker acting as a Transaction Broker: YES \_\_\_\_\_ NO \_\_\_\_\_
- b. A designated agent for the SELLER: YES \_\_\_\_\_ NO \_\_\_\_\_
- c. A designated agent for the BUYER: YES \_\_\_\_\_ NO \_\_\_\_\_
- d. \_\_\_\_\_: YES \_\_\_\_\_ NO \_\_\_\_\_  
(acting as BUYER'S Designated Agent)
- e. BUYER'S Designated Agent acting as a Transaction Broker if he/she is also designated agent for the SELLER: YES \_\_\_\_\_ NO \_\_\_\_\_

9. COMPENSATION: BUYER agrees to pay Broker, as compensation for services rendered, a cash fee as follows:

- a. BUYER and Broker hereby agree that Broker shall first seek payment of the fee from the transaction. Broker may receive compensation from the contract proceeds from the SELLER and, in such event, any commission or fees paid from the SELLER'S proceeds shall be credited against the amounts due from the BUYER.
- b. If the fee cannot be obtained from the transaction, in whole or in part, BUYER shall pay Broker the balance due as provided in this Agreement.
- c. Such compensation shall be due and payable on the happening of any of the following events, to wit:
  - (1) If a purchase or lease or other acquisition of real property, as described herein, is concluded before the expiration of this Agreement by the Broker named above or by the BUYER or, through any other person or, -
  - (2) Such compensation shall be paid if purchase, lease or other acquisition of real property is concluded within \_\_\_\_\_ days after expiration of this Agreement, or any extension thereof, as long as the description of the property acquired by BUYER was submitted, in writing, to BUYER by Broker or Broker's agent pursuant to Section 4 hereof, during the original term of this Agreement or any extension thereof.

10. BUYER'S RESPONSIBILITY: The duties of Broker and his/her associated salespersons contained herein do not relieve BUYER from the responsibility of protecting BUYER'S own interests. BUYER should read carefully all agreements to assure that they adequately express BUYER'S understanding of the transaction.

11. TRANSFER OR ASSIGNMENT: This Agreement shall not be transferred or assigned without the written consent of all parties to this Agreement, and any assignee shall fulfill all the terms and conditions of this Agreement. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto, their heirs, successors, administrators, executors and assigns.

12. OTHER POTENTIAL BUYERS: BUYER understands that other potential BUYERS may consider, make offers on, or purchase through Broker the same or similar properties as BUYER seeks to acquire. BUYER consents to Broker's representation of such potential BUYERS before, during and after the expiration of this Agreement. Broker shall not, however, disclose to BUYER the material terms of any pending offer for the purchase of said property nor shall Broker reveal or discuss with other of its BUYER clients the material terms of any offer made by BUYER hereunder.

13. DISCLOSURE OF BUYER AGENCY: At the time of the initial contact, the Broker shall inform all prospective SELLERS and their agents with whom the Broker negotiates pursuant to this Agreement, that the Broker is acting on behalf of a BUYER.

14. DISCLOSURE OF BUYER'S IDENTITY:

- Broker does have BUYER'S permission to disclose BUYER'S identity.
- Broker does **NOT** have BUYER'S permission to disclose BUYER'S identity.





15. INDEMNIFICATION OF BROKER: BUYER agrees to indemnify Broker and to hold Broker harmless on account of any and all loss or damage arising out of this Agreement, provided Broker is not at fault, including, but not limited to, attorney's fees reasonable incurred by Broker.

16. LICENSED MATERIALS. BUYER acknowledges that in the course of listing and marketing properties, Sellers frequently grant an irrevocable, perpetual, non-exclusive and fully sub-licensable and assignable license to use, reproduce, modify, adapt, publish, create derivative works from, distribute, perform, and display any photographs, floor plans, architectural drawings, video images, sounds or other copyrightable material related to their properties ("marketing materials"). Said marketing materials may be licensed to third-party websites or referral services. BUYER has been advised and understands that such a license survives the closing of a successful transaction and that neither BUYER nor Buyer's Agent have the authority to revoke a license or require removal of marketing materials that have been published pursuant to a license granted by a Seller.

17. TERMINOLOGY AND CAPTIONS: All pronouns, singular or plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and plural shall mean and include the singular. The captions and paragraph headings hereof are for reference and convenience only and do not enter into or become a part of the context.

18. EQUAL HOUSING OPPORTUNITY: Properties will be presented in compliance with federal, state and local fair housing laws and regulations.

19. ELECTRONIC SIGNATURES AND TRANSACTIONS: BUYER and BROKER agree that this transaction may be conducted through electronic means according to the Kansas Uniform Electronic Transactions Act. However, the BROKER has no authority or power of attorney to enter into electronic agreements with other parties to purchase specific property on behalf of the BUYER without the BUYER'S explicit authorization.

20. ADDITIONAL PROVISIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BUYER HEREBY AGREES TO THE FOREGOING AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.

\_\_\_\_\_  
BUYER  
Buyer Name \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
BUYER  
Buyer Name \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
BUYER Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agency



## Implementation System Change Request (SCR) and Acceptance Form

MLS/Board Name: Lawrence Board of Realtors Estimate Date: 7/24/2023

MLS/Board Contact Name: Rob Hulse Expiration Date: 10/24/2023

Contact Email: rob@lawrencerealtor.com Contact Phone: (785) 842-1843

SSM Name: Tanisha Shinault Jira Ticket #: TK-15052

Requesting a script runner task to change the Listing Visibility Type (LVT) from Agent, Office or Firm Exclusive to MLS Listing for properties that have moved to one of the Exclusive Sold statuses in the previous 24 hours:

Requested Changes: Sold Agent –Exclusive  
Sold Office –Exclusive  
Sold Firm –Exclusive

To allow these listings to be used as comps after they have sold, therefore they have to

Business Purpose: be visible to the whole MLS.

LAWBOR members select the Listing Visibility Type (LVT). When the member selects an Agent, Office or Firm Exclusive LVT it should remain on the listing unless the agent changes it. While in any of these LVTs the members should be able to change the status from Active to any other available status for the life of the listing. It is only when the listing is changed to Sold that they have to select a specific Sold status of Sold Agent – Exclusive, Sold Office –Exclusive or Sold Firm –Exclusive per rules 246-249. During the nightly process the status should remain on the listing for historical purposes but the LVT should convert to MLS Listing via the script runner task.

Additional Info:

**Estimate (completed by Implementation)**

Summary of changes: Create Script Runner to run once a day to do the following: When a listing is in status Sold Office – Exclusive, Sold Agent – Exclusive, or Sold Firm – Exclusive and when LVT is Agent Exclusive, Office Exclusive, or Firm Exclusive, and when one day has passed since it was moved into one of the Sold Statuses, update the LVT to MLS Listings (LVT 1).  
PLEASE NOTE – this may trigger prospecting.

**Affected Modules**

- |  |                                      |   |  |
|--|--------------------------------------|---|--|
| <input type="checkbox"/> Association Autonomy            | <input type="checkbox"/> Features    | <input type="checkbox"/> Listing Visibility Types | <input type="checkbox"/> Saved Searches                |
| <input type="checkbox"/> Audit Listings                  | <input type="checkbox"/> Fields      | <input type="checkbox"/> Lookups                  | <input type="checkbox"/> Third Party Integration (TPI) |
| <input type="checkbox"/> Client Connect                  | <input type="checkbox"/> Field Rules | <input type="checkbox"/> Lookup Relationships     | enter TPI name here                                    |
| <input type="checkbox"/> Exports                         | <input type="checkbox"/> Listings    | <input type="checkbox"/> RETS Metadata            |  |
| <input checked="" type="checkbox"/> Other: Script Runner |                                      |   |  |

**Additional Factors**

- |   |  |
|---|--|
| <input type="checkbox"/> Must be scheduled after regular business hours | <input type="checkbox"/> Requires that the system be set to read-only    |
| <input type="checkbox"/> Requires a test environment NO                 | <input type="checkbox"/> Other If checked, enter Other description here. |

Appx # of affected listings: N/A

Work Estimate (# of hours): #3

Hourly rate: \$205

Other Fees – (If applicable, enter description here): \$

Total Amount to be Billed: \$615

Additional Comments: Enter additional comments here

**Approval (to be completed by MLS/Board Representative)**

Signature: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

# CONTINGENCY FOR THE SALE/CLOSING OF BUYER'S PROPERTY WHEN BUYER'S PROPERTY IS NOT UNDER CONTRACT

This is an addendum to the Sales Contract for the following Property:

SELLER: \_\_\_\_\_

BUYER: \_\_\_\_\_

PROPERTY: \_\_\_\_\_

## CONTINGENCY FOR SALE/CLOSING OF BUYER'S PROPERTY:

The Sales Contract is contingent upon the sale and/or closing of BUYER'S Property located at: \_\_\_\_\_  
\_\_\_\_\_ ("BUYER'S Property"),

which is listed for sale with Listing Agent: \_\_\_\_\_ MLS# \_\_\_\_\_  
with terms as provided herein:

1.  **BUYER'S PROPERTY NOT UNDER CONTRACT:** BUYER'S Property is NOT under contract and:
  - A. BUYER has \_\_\_\_\_ calendar days (30 if left blank) from the effective date of the Sales Contract to be under contract on the sale of BUYER'S Property.
  - B. Once BUYER'S Property is under contract, BUYER shall, within \_\_\_\_\_ calendar days (2 if left blank), provide the SELLER with a copy of the Sales Contract, including any related documents showing that the BUYER'S Property is under contract.
  
2.  **BUYER'S PROPERTY UNDER CONTRACT:**

BUYER'S Property is under contract and scheduled to close on \_\_\_\_\_ (date).

  - A. Escrow Agent is \_\_\_\_\_.
  - B. BUYER shall, within \_\_\_\_\_ calendar days (2 if left blank) from the effective date of the Sales Contract, provide the SELLER with a copy of the Sales Contract on BUYER'S Property, including any related documents showing that the BUYER'S Property is under contract.
  - C. BUYER shall within \_\_\_\_\_ calendar days (2 if left blank) after closing of the sale of BUYER'S Property, provide documentation of closing to SELLER.
  - D. Once BUYER'S Property closes BUYER can no longer use this contingency to cancel the Sales Contract.
  - E. If either party to the Sales Contract on BUYER'S Property gives notice to the other to cancel that contract, **which results in cancellation**, BUYER, within \_\_\_\_\_ calendar days (2 if left blank) thereafter, shall give SELLER notice of that cancellation.
  
3. **BACK UP OFFERS AND SELLER RIGHT TO HAVE BUYER REMOVE CONTINGENCIES OR CANCEL:** After acceptance, SELLER shall have the right to continue to market the Property for sale. If SELLER accepts another bonafied (back up) offer to purchase the Property, SELLER may:
  - A.  **(If checked) IMMEDIATELY NOTIFY BUYER TO REMOVE THE CONTINGENCY FOR THE SALE/CLOSING OF BUYER'S PROPERTY:** SELLER shall have the right to immediately give notice to BUYER and BUYER may, in writing, remove this contingency by providing SELLER with any of the following (if checked):
    - (i)  evidence of a bonafide contract for the sale of BUYER'S property, with a closing scheduled on or before the closing date of this Contract, and containing no property sale contingency: and/or
    - (ii)  evidence of a written loan commitment containing no condition(s) requiring the sale of BUYER'S property; and/or
    - (ii)  evidence of "bridge" or interim financing sufficient to complete the closing of this Contract; and/or
    - (iv)  written verification from a depository demonstrating funds on deposit adequate to close on this Sales Contract.

If BUYER fails to complete one of the checked actions in 3A within \_\_\_\_\_ **calendar days hours (2 48** if left blank) after delivery of such notice, SELLER may immediately **CANCEL THIS CONTRACT** by delivering written notice to BUYER of SELLER'S intent to cancel in the form of a written contract cancellation agreement and, upon execution of the agreement, the Earnest Money Deposit shall be promptly returned to the BUYER and the Sales Contract shall be deemed null and void.
  - B.  **(If checked) DELAYED RIGHT TO NOTIFY BUYER:** SELLER shall not invoke the notice provisions in Paragraph 3A:





# CONTINGENCY FOR THE CLOSING OF BUYER'S PROPERTY WHEN BUYER'S PROPERTY IS UNDER CONTRACT

This is an addendum to the Sales Contract for the following Property:

SELLER: \_\_\_\_\_

BUYER: \_\_\_\_\_

PROPERTY: \_\_\_\_\_

## CONTINGENCY FOR SALE/CLOSING OF BUYER'S PROPERTY:

The Sales Contract is contingent upon the ~~sale and/or~~ closing of BUYER'S Property located at: \_\_\_\_\_ ("BUYER'S Property"),

which is listed for sale with Listing Agent: \_\_\_\_\_ MLS# \_\_\_\_\_  
with terms as provided herein:

## BUYER'S PROPERTY IS UNDER CONTRACT:

BUYER'S Property is under contract and scheduled to close on \_\_\_\_\_ (date).

- A. Escrow Agent is \_\_\_\_\_.
- B. BUYER shall, within \_\_\_\_\_ calendar days (2 if left blank) from the effective date of the Sales Contract, provide the SELLER with a copy of the Sales Contract on BUYER'S Property, including any related documents showing that the BUYER'S Property is under contract.
- C. BUYER shall within \_\_\_\_\_ calendar days (2 if left blank) after closing of the sale of BUYER'S Property, provide documentation of closing to SELLER.
- D. Once BUYER'S Property closes BUYER can no longer use this contingency to cancel the Sales Contract.
- E. If either party to the Sales Contract on BUYER'S Property gives notice to the other to cancel that contract, **which results in cancellation**, BUYER, within \_\_\_\_\_ calendar days (2 if left blank) thereafter, shall give SELLER notice of that cancellation.

## SPECIAL PROVISIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CAREFULLY READ THE TERMS HEREOF BEFORE SIGNING. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING.**

\_\_\_\_\_  
SELLER DATE

\_\_\_\_\_  
BUYER DATE

\_\_\_\_\_  
SELLER DATE

\_\_\_\_\_  
BUYER DATE



