



MetroList MLS Rules Hot Topic 3

Conditional Offers of Compensation

When you make a unilateral offer of compensation you may not attach conditions that are tied to different levels of compensation. In simple terms, for example, you cannot say “I will pay you X, but if the escrow closes in 30 days or less, I will pay you Y.” There are many other examples. The easiest way to avoid this problem is to look out for the word “if.” If you have included the word “if” as part of what you are offering as a commission, you should stop and rethink your strategy. MLS [Rule 7.13](#) says:

7.13 Unilateral Contractual Offer.

In filing a property with the 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. Provided, however, that in the event the gross commission established in the listing contract is subject to court approval or to lender approval in the event of a short sale, the compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court or by a lender. In such instances, the fact that the gross commission is subject to court or to lender approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they produce an offer that ultimately results in a successful transaction. A Broker Participant must specify some compensation to be paid 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. 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. Furthermore, the MLS reserves the right to remove a listing from the MLS database that does not conform to the requirements of this section.