



## **MetroList MLS Rules Hot Topic 4**

### **When Are Commissions Negotiable?**

While commissions are always negotiable as a general rule, the MLS Rules include some procedures that Participants must follow that limit how that can be done. As a cooperating broker or salesperson, the total commission is none of your business, except to the extent that the listing broker in response to inquiries must disclose the differential that would result in the event that there is a Dual or Variable Rate commission.

Second, you may not use an offer as a vehicle to attempt to cause the listing broker to modify the blanket unilateral offer of compensation that existed at the time that you produced your offer. You agreed to work for what was offered and you knew what was offered when you produced your offer.

Third, the listing broker may not use a counter offer as a vehicle to cause the cooperating broker to take less compensation than what was offered at the time the cooperating broker produced the offer. MLS [Rules](#) 9.5 and 7.17 provide:

#### **9.5 Change of Compensation Offer by Cooperating Broker.**

The cooperating broker shall not use the terms of an offer to purchase to attempt to modify the listing broker's offer of compensation nor make the submission of an executed offer to purchase contingent on the listing broker's agreement to modify the offer of compensation. However, failure of a cooperating broker to comply with this rule shall not relieve a listing broker of the obligation to submit all offers to the seller as required by Section 9.3.

#### **7.17 Changes to Offer of Compensation by Listing Broker to All Broker Participants.**

The listing broker may, from time to time, adjust the published compensation offered to all MLS Broker Participants with respect to any listing by changing the compensation offered on the MLS or providing written notice to the MLS of the change. Any change in compensation will be effective after the change is published in the MLS, either through electronic transmission or printed form, whichever occurs first. The MLS merely publishes the compensation offered through the MLS. The listing broker may revoke or modify the offer of compensation in advance as to an individual Broker Participant in accordance with general contract principles, but in no event shall the listing broker revoke or modify the offer of compensation without the cooperating broker's consent later than the time the cooperating broker (a) physically delivers or transmits by fax or e-mail the listing broker a signed offer from a prospective buyer to purchase the property for which the compensation has been offered through the MLS, or (b) notifies the listing broker in person or by telephone, fax or e-mail that the cooperating broker is in possession of a signed offer from a prospective buyer to purchase the property for which the compensation has been offered through the MLS and is awaiting instructions from the listing broker as to the manner of presentation or delivery of that offer. Any independent advance revocations, modifications of the offer or agreements between real estate brokers are solely the responsibility of such brokers and shall not be submitted to, published by, or governed in any way by the Service.