

# CRMLS RULE CHANGES MAY 2020

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California Regional Multiple Listing Service, Inc.



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CRMLS.ORG | 800.925.1525

Effective May 1, 2020

## CRMLS RULE CHANGES – MAY 2020

### Citation Policy Changes:

Update summary on Rule 7.8: Failure to Timely Input a Required Listing or Exclusion Form Failure to Input Listing in MLS or Register Property

Modify fine amount for Rule 7.8: ~~\$500~~ 1% of the list price with minimum fine of \$500 not to exceed \$2,500

Modify Warning for Rule 7.8: ~~No~~ Yes

Add Rule 7.9: Failure to Submit Listing to MLS Upon Marketing a Property

Add fine amount for Rule 7.9: 1% of the list price with minimum fine of \$500 not to exceed \$2,500

Add Warning for Rule 7.9: Yes

Add Rule 7.9.1: Marketing or no written permission on a No Cooperation Listing

Add fine amount for Rule 7.9.1: 1% of the list price with minimum fine of \$500 not to exceed \$2,500

Add Warning for Rule 7.9.1: Yes

Add a second summary for Rule 9.3: Showing of a Coming Soon or Hold Listing

Add a fine amount for Rule 9.3 (Coming Soon): 1% of the list price with minimum fine of \$500 not to exceed \$2,500

Add Warning for Rule 9.3 (Coming Soon): Yes

Remove Warning from Rule 10.2: ~~Yes~~ No

### Rules and Regulations Changes:

#### **Addition of new:**

**7.9 Mandatory Submission upon Marketing.** Within one (1) business day of marketing or advertising a property to any member of the public, the Listing Broker must submit the property into the MLS for cooperation with other MLS participants. Marketing and advertising includes, but is not limited to, any information about the property or its availability for sale displayed on any: signs, websites, social media, brokerage or franchise operated websites, communications (verbal or written), multi-brokerage or franchise listing sharing networks, flyers or written material, or on any applications available to the public, or by conducting an open house. Any individual or entity that has signed within the previous year a Disclosure Regarding Real Estate Agency Relationship form in compliance with CA Civil Code section 2079.16 that identifies the Listing Broker shall not be considered a “member of the public” under this rule.

#### **Revisions to:**

**2. PURPOSE.** A Multiple Listing Service is a means by which authorized MLS Broker participants ~~establish~~ ~~decide to cooperate with one another for the benefit of each of their respective clients by establishing~~ legal relationships with other participants ~~by~~ ~~in~~ making a blanket unilateral contractual offer of compensation and cooperation to other Broker participants; by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses and other valuations of real property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information among the participants so that they may better serve their clients, customers, and the public. ~~Entitlement to Acceptance of the offered~~ compensation is determined by the Buyer Broker's performance as a procuring cause of the sale or lease ~~consistent with these Rules.~~

**7.8 Mandatory ~~Submission. Within Delivery of Listing Agreement.~~** Listing Broker shall input into the MLS any and all properties located in the MLS Service Area within ~~two (2) business days after Business Days of the Effective Date of any listing agreement on any exclusive right to sell/lease or seller reserved listing agreement on one to four-unit residential property and vacant lots. The Effective Date of a listing agreement is the later of all necessary signatures of the seller(s) have been obtained on the listing, or at the beginning date of the listing as specified in the contract, whichever is later, on any exclusive right to sell/lease or seller reserved listing on one to four unit residential property and vacant lots located within the service area of the MLS, Broker.~~ Registered properties shall not be made available for viewing, compensation or cooperation in the MLS database to cooperating Participants ~~shall (1) input the listing to the service, or (2) submit a seller signed exclusion in accordance with Section 7.9 (Exempted Listings) to the AOR/MLS and DOM shall not calculate on a Registered listing.~~ All necessary signatures are those needed to create an enforceable listing, which generally means all named signatories to the listing agreement. In the event there are known additional property owners not made a signatory to the listing, the Listing Broker shall disclose said fact to the ~~AOR/MLS~~ and state whether the listed seller will make the sale contingent on the consent of the additional property owners. In the event the listing agent is prevented from complying with the 1-business daytime period due to seller's delay in returning the signed listing agreement, the Listing Broker must deliver the listing to the MLS within 2 business days of receipt back from seller. The AOR/MLS may require the Listing Broker to present documentation to the AOR/MLS evidencing the seller's delayed transmission. Only those listings that are within the service area of the MLS must be input. Open listings or listings of property located outside the MLS's service area (see Section 7.10) are not required by the MLS but may be input at the Broker Participant's option.

**7.9 7.9.1 Exempted Listings No Cooperation Listing.** If the seller ~~in writing~~ refuses to permit the property listing to be ~~disseminated by the AOR/MLS~~ marketed or advertised as defined by Rule 7.9, and also instructs the Listing Broker to not disseminate the listing in the MLS, the Listing Broker shall ~~submit~~ obtain a written instruction ~~to the MLS a certification signed by the seller that from the seller does not~~ instructing the Listing Broker to do no marketing or advertising and refuses to authorize the listing to be disseminated by the MLS. ~~C.A.R. Standard Form SEL may be used for this certification, but in any event, said exclusion~~The instruction shall include an advisory to seller that, in keeping the listing off the MLS, (1) ~~No marketing or advertising of any kind will occur,~~ (2) real estate agents and brokers from other real estate offices, and their buyer clients, who have access to the MLS may not be aware seller's property is for sale, (23) seller's property will not be included ~~in the MLS's download to various on any~~ real estate Internet sites ~~or applications~~ that are used by the public to search for property listings, (34) real estate agents, brokers and members of the public may be unaware of the terms and conditions under which

seller is marketing the property, and (45) the reduction in exposure of the listing may lower the number of offers made on the property and may adversely impact the overall price.

### **7.15 Unilateral Contractual Offer; Subagency Optional**

- a) In ~~filling~~ placing a listing with the AOR/MLS into a status of Coming Soon, Active, Active Under Contract, or Hold the Broker Participant makes a blanket unilateral contractual offer of compensation to the other MLS Broker Participants for their services in selling the property.
- b) Except as set forth in Rule 7.18 below, a Listing Broker must specify some compensation to be paid to either a buyer's Broker or a subagent 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.
- c) 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.
- d) In the event there are any service fees or administrative costs, etc., to be imposed on buyer's agent's compensation, any such reductions should be factored in as a reduced amount the listing broker initially offers to a Buyer Broker and may not be made a condition of the offer.
- e) Furthermore, the AOR/MLS reserves the right to remove a listing from the AOR/MLS database that does not conform to the requirements of this section.
- f) At the Listing Broker's option, a Listing Broker may limit his or her offer of compensation to buyer's(s') agents only, to subagents only, or make the offer of compensation to both. Any such limitations on the contractual offer of compensation must be specified on the property data form and in the MLS. The amount of compensation offered to buyers' agents or subagents may be the same or different but must be clearly specified on the property data profile sheet. Listing Brokers wishing to offer subagency to the other MLS Broker Participants must so specify on the property data profile sheet and on the MLS, otherwise the offer of compensation does not constitute an offer of subagency.

**9.3 Availability to Show or Inspect.** Listing Brokers shall not misrepresent the availability of access to show or inspect a listed property. For any property in which Listing Broker selected a status of Coming Soon or Hold, Listing Broker represents that the property shall have no showings or tours, whether conducted by Listing Broker or otherwise, until such time as the Property is placed in the Active or Active Under Contract status.

**10.1 Statuses.** The following statuses shall apply to listings on the MLS and Listing Broker shall place a listing in the correct status:

#### **~~On-Market Statuses.~~**

Registered: A valid listing contract exists, and no offer has been accepted. The listing will not be disseminated or displayed to any Cooperating Brokers. The property is not being Marketed or Advertised as those terms are defined in Rule 7.9.

Coming Soon: A valid listing contract exists, and no offer has been accepted. The Listing Broker is in possession of a seller signed instruction to submit the listing as “Coming Soon”. Marketing and Advertising as defined in Rule 7.9 is permitted and shall include language that the property is “Coming Soon” and shall include the date the property will become

Active (A): A valid listing contract exists and no offer (with or without contingencies) has been accepted. ~~This is an On-Market status-~~ Marketing and Advertising as defined in Rule 7.9 is permitted.

Active Under Contract (U): Offer accepted and either: 1) seller requests that property remain in an On-Market status and is looking for back-up offers, or; 2) the sale is subject to court or other third -party approval. ~~This is an On-Market status-~~ Marketing and Advertising as defined in Rule 7.9 is permitted.

#### **Off-Market Statuses-**

Hold (H): A valid listing contract ~~is in effect, but Seller exists, and no offer has instructed been accepted.~~ The Listing Broker ~~in writing that no offers shall be presented~~ is in possession of a seller written instruction to ~~Seller-~~submit the listing as “Hold” This instruction may be due to various reasons such as multiple quality offers already received, repairs, illness, guests, etc. ~~This is an Off-Market status-~~ Marketing and Advertising as defined in Rule 7.9 is permitted. The property is not available for showings consistent with Rule 9.3.

Withdrawn (W): A valid listing contract is in effect. However, the property is no longer being marketed. ~~This is an Off-Market status-~~ and as such no Marketing or Advertising shall occur consistent with Rule 7.9.

Pending (P): The seller has accepted an offer and is not soliciting offers through the MLS. ~~This is an Off-Market status~~ Any Marketing or Advertising of the property while in Pending status will not be considered a violation of Rule 7.9.

Canceled (C): The listing agreement has been canceled. ~~This is an Off-Market status-~~

Expired (X): The listing agreement has expired. The time frame of the existing listing contract has run out. ~~This is an Off-Market status-~~

Sold (S): Escrow has closed. ~~This is an Off-Market status-~~

Leased (L): The property has been leased. ~~This is an Off-Market status-~~

#### **10.2 Reporting of Sales.**

a) Listings with accepted offers shall be reported to the MLS or input into the MLS database as “pending” or “active under contract” within 2 business days of the acceptance by the Listing Broker unless the negotiations were carried on under Section 9.1 (a) or (b), in which case, the Buyer Broker shall notify the Listing Broker of the “pending” or “active under contract” status within 2 business days after acceptance, whereby the Listing Broker shall then report or input the status change to the MLS within 2 business days of receiving notice from the Buyer Broker.

b) The listing shall be published on the MLS as “pending” or “active under contract” with no price or terms prior to the final closing.

c) Upon final closing, the Listing Broker shall report or input the listing in the MLS as “sold” and report the selling price within 2 business days of the final closing date unless the negotiations were carried on under Section 9.1 (a) or (b), in which case, the Buyer Broker shall notify the Listing Broker of the “sold” status and selling price within 2 business days after the final closing date, whereby the Listing Broker shall then report or input the status change and selling price to the MLS within 2 business days of receiving notice from the Buyer Broker.

d) Listings which were not input into the MLS **for cooperation** as a result of the seller’s(s’) instructions may be input into the MLS “sold” data at the Listing Broker's option. However, listings which were input into the MLS but subsequently withdrawn must still be reported under this section if the seller is represented by the Listing Broker when it closes.

e) The MLS may accept the reporting of sales information for comparable purposes about other properties which were not otherwise eligible for input into the MLS but are located in the MLS’s service area and “sold” by a Participant who represented a party in the transaction (i.e. broker who represented the seller or broker who represented the buyer), as long as such reporting is authorized by a party in the transaction to the broker who represented it, (if requested by the MLS documentation must be presented to MLS within 2 business days), and the circumstances of the representation are disclosed on the Service by the reporting participant or subscriber. Any submission of sales information must occur within 2 business days after close of escrow.

#### **Removal of:**

**7 a) Impact on Days on Market (DOM).** ~~As it pertains to the Exclusion Form DOM stands for Days on Market, not Days on MLS. The DOM calculated in the MLS and reported to the various internet sites will be when marketing begins. As a general rule, the first Day on Market will be the beginning date of the Listing Agreement, which is either the beginning date identified on the agreement, or the date of the last signature required to make the listing agreement valid, whichever is later. The DOM may alternatively begin at a later date as long as no marketing of the Property occurs and the CRMLS Exclusion form is utilized. Marketing is identified as:~~

~~Marketing is any communication made to the public containing any information, details, price or terms of any potential sale of the Property, or any communication made to the public in regard to the Brokerage firm or Agent’s representation of the Seller. Marketing includes but is not limited to: 1) Sign on the property; 2) Internet Website posts; 3) Social Media Posts; 4) Flyers or Advertising; 5) Open Houses.~~