

New/Modified MLS Rules adopted by Bay East AOR

The following MLS Rule Citations were approved by the Bay East Association of REALTORS and will be effective July 1, 2016. If you have any questions regarding the changes please contact Roya Chaudhry at 925-730-4071 or royac@bayeast.org for a full set of the MLS Rules and Regulations [click here](#)

Changes to the Rule

7.9 Withdrawal of Listing Prior to Expiration. Listings of property ~~may~~ **must** be withdrawn from the MLS by the listing broker before the expiration date of the listing agreement ~~provided if~~ the listing broker has received written ~~permission~~ **instructions** from the seller to withdraw the listing ~~from the MLS~~. **Listing broker may withdraw any listing from the MLS 48 hours after providing seller with written notice of the broker's intention to withdraw the listing based on a dispute with the seller regarding the terms of the listing agreement.** The MLS may require the listing broker to provide a copy of ~~such written permission~~ **any notice of dispute or any written instructions from the seller**. Sellers do not have the unilateral right to require the MLS to ~~withdraw~~ **cancel** any listing ~~without the listing broker's concurrence~~. However, the MLS reserves the right to remove a listing from the MLS data base if the seller can document that his or her listing agreement with the listing broker has been terminated or is invalid. **Withdrawal from the MLS with the seller's consent does not relieve the obligation of the listing broker to report the sale and sales price if it closes escrow while the seller is represented by the listing broker.**

Reason for change: **Section 7.9 Withdrawal of Listing Prior to Expiration** has been revised to require that a listing must be withdrawn by listing agent if seller instructs withdrawal in writing and that it may be withdrawn by listing agent in instances of a dispute with seller 48 hours after listing agent provides seller with notice of intent to withdraw. The MLS can require listing agent to produce a copy of notice of dispute or written instruction from the seller. There is an ongoing obligation to report solds.

7.24 Auction Listings. **Only auction listings which comply with these MLS Rules and Regulations, including, but not limited to Sections 7.12 and 7.13, may be submitted to the Service.** Auction listings entered into the MLS system shall have listing contracts as required under these rules, ~~and~~ be clearly labeled as auction listings, ~~and~~ **provide all the terms and conditions of the auction. Reserve auctions are not permitted on the MLS.** Auction listings shall further specify the following:

- (a) The ~~list price, which shall be~~ seller's minimum acceptable bid price;
 - ~~(b) Whether the auction is being conducted with or without the seller's right of reservation;~~
 - ~~(c)~~ (b) The date, time and place of the auction;
 - ~~(d)~~ (c) All required procedures for Participants/Subscribers to register their representation of a potential bidder;
 - (d) ~~The amount of the buyer's premium, if any;~~
 - ~~(e) The compensation to be paid to the Participant representing the successful bidder;~~
 - ~~(f)~~ (e) The time or manner in which potential bidders may inspect the listed property;
 - ~~(g) (f) Whether or not the seller will accept a purchase offer prior to the scheduled auction and if so, the compensation to be paid to the cooperating Participant in the event of such a pre-auction sale as well as any other necessary pre-auction details; and~~
 - ~~(h) (g) Any other material rules or procedures for the auction.~~
- Subsections (b) through (g) above shall not appear in a listing's public remarks.**
- (i) Disclose buyer's premium charged by the auction
 - (j) The above information must be specified in confidential remarks and/or associated documents.

Reason for Change: **Section 7.24 Auction Listings** has been revised to disallow right of reservation auctions because by their no minimum bid/ "confidential" reserve amount nature, they don't fit MLS requirements requiring disclosure of an actual list price. Reference to compensation in the auction rule has also been removed since rules governing the offer of compensation are already set forth elsewhere in the MLS Rules.

8.3 Accuracy of Information; Responsibility for Accuracy. By inputting information into the MLS computer database, the listing broker represents that the information input is accurate to the best of the listing broker's knowledge. The listing broker shall use good faith efforts to determine the accuracy of the information and shall not submit or input information which the listing broker knows to be inaccurate. Upon receipt of the first publication or electronic transfer by the MLS of such information the listing broker shall make all necessary corrections. The MLS merely publishes the MLS information and has no affirmative responsibility to verify the accuracy of the MLS information. The MLS, however, reserves the right to require ~~Broker~~ Participants and ~~real estate~~ Subscribers to change their MLS information if the MLS is made aware of alleged inaccuracies in the MLS information and the MLS determines that such inaccuracies do in fact exist. The MLS also reserves the right to remove a listing that contains said inaccurate information from the MLS compilation of current listings should Participant or Subscriber refuse or fail to timely correct. A Participant or Subscriber is required to correct inaccurate information within 2 days after being notified of the inaccuracies by the MLS. If a Participant or Subscriber fails to make necessary or required corrections to their MLS information, the Participant and Subscriber shall indemnify and hold harmless the service for any claims, costs, damage or losses, including reasonable attorney fees and court costs, incurred by the MLS as a result of such failure. In no event will the MLS be liable to any MLS Participant, Subscriber or any other party for any indirect, special or consequential damages arising out of any information published in the MLS and all other damages shall be limited to an amount not to exceed the MLS fees paid by the listing broker.

Reason for Change: Section 8.3 Accuracy of Information; Responsibility for Accuracy has been revised to give the MLS the right to remove a listing that has been flagged for inaccuracy when an agent has refused or failed to correct.

9.9 Physical Presence of Participant or Subscriber. A Participant or Subscriber must be physically present on the property at all times when providing access to a listed property unless the Seller has consented otherwise.

Reason for Change: Section 9.9 Physical Presence of Participant or Subscriber has been revised to clarify that a participant or subscriber must be "physically" present when providing access to a property

11.10 Indemnification; Limitation of Liability. Participant and Subscriber shall indemnify and hold harmless the service for any claims, costs, damage or losses, including reasonable attorney fees and court costs, incurred by the MLS resulting from or arising out of any content Participant and/or Subscriber submit to or in any way wrongfully reproduce from the Service. In no event will the MLS be liable to any MLS Participant, Subscriber or any other party for any indirect, special or consequential damages arising out of any information published in the MLS and all other damages shall be limited to an amount not to exceed the MLS fees paid by the listing broker.

Reason for adding: Section 11.10 Indemnification; Limitation of Liability has been added to provide a broad stand-alone indemnity provision.

12.16 Use of Listing Information on Internet [Also known as Internet Data Exchange ("IDX")]. "Internet Data Exchange" ("IDX") is a means by which listing brokers permit limited electronic display of their active, pending and sold listings **data**, in accordance with the IDX rules set forth herein, by other participating Broker Participants and R.E. Subscribers on websites and using applications for mobile devices that said participating Broker Participants and R.E. Subscribers control.