

New/Modified MLS Rules adopted by Bay East AOR

The following MLS Rule changes were approved by the Bay East Association of REALTORS® and will be effective October 9, 2019. If you have any questions regarding the changes, please contact Jackie Diaz at 925-730-4077 or JackieD@bayeast.org. For a full set of the MLS Rules and Regulations [click here](#).

Revised Rule Sections (section in “red” is new)

The rule has been revised to provide clarity about alcohol policy.

MLS Rule Section 12.8.2 Association and/or MLS Marketing Meeting and Broker Tours. Marketing Meetings and Broker Tours are officially sanctioned networking events where members of the real estate industry gather to share information. These events may draw a broader audience than MLS Participants and Subscribers. By adding a listing on Tour, the listing broker agrees:

- a) To allow the generation of a tour report that includes limited listing information and make it openly available for distribution in printed or other formats in conjunction with the Marketing Meetings.
- b) **Not to serve alcohol at properties on Association and/or MLS Marketing Meetings and Broker Tours. (Note: By imposing this restriction, Association and/or MLS makes no representation of nor assumes any duty to active policing of off-site properties but will entertain any and all complaints submitted to it establishing violations of this section).**

Serving Alcohol at Homes-on-Broker Tour

Q1: Is it legal to serve alcohol at Homes-on-Broker Tour?

A1: No, it is not legal to serve alcohol at Homes-on-Broker Tour unless you are a licensed caterer or have a license to serve alcohol. The caterer must have both:

- (1) an On-Sale license from the California Department of Alcoholic Beverage Control (“the ABC”)
 - (2) a Type 58 Catering Permit also issued by the ABC (which allows them to exercise On-Sale privileges at a location other than their businesses)
- Bus. & Prof. Code § 23320 Types of licenses and fees; § 23320.1

Q2: When can I serve alcohol without a license?

A2: You may serve alcohol without a license at “private parties” (see the private-party exception under the Beverage Control Act § 23399.1).

Q3: What constitutes a “private party”?

A3: By their very nature Homes-on-Broker Tour and Open Houses are open to the general public. According to the Beverage Control Act § 23399.1, to qualify as a private event:

1. The event must not be open to the general public
2. The agent must have a list of the names of the invited guests who will be attending the Home-on-Tour beforehand
3. If any person not on the list is admitted, the event is automatically considered “open to the public”

Q4: Should I check with my broker before serving alcohol?

A4: You should have your broker's approval prior to serving alcohol. The broker is encouraged to consider the risks associated with the serving of alcohol by non-licensed distributors.

1. Serving to attendees under the age of 21
2. Serving to visible intoxicated attendees
3. Verifying that the broker's E&O insurance covers the distribution of alcohol

Q5: Can I obtain a one-day license?

A5: One-day licenses are only issued to bona fide nonprofit organizations or caterers.

Q6: Can an agent be liable for serving alcohol at a Home-on-Broker Tour or Open House?

A6: Yes, according to state law, an agent may be held liable for damages and criminally punished with a misdemeanor if they serve alcohol to an obviously intoxicated individual. Agents must also ensure that alcohol is not served to individuals under 21.

Q7: What if I have a license or I hire a caterer?

A7: While you may be legally allowed to serve alcohol if you have a license, the Bay East MLS Rules (Rule 12.8.2) prohibit the serving of alcohol at Homes-on-Broker Tour.

Q8: What happens if I serve alcohol at a Home-on-Broker Tour?

A8: Bay East MLS Rule 12.8.2 states "Not to serve alcohol at properties on Association and/or MLS Marketing Meetings and Broker Tours." MLS Subscribers who serve alcohol on tour may be subject to fines and hearings.

Q9: Can I serve alcohol at Open House Twilight Tours?

A9: Risk management should be top of mind if you choose to serve alcohol at an open house. Take the time to review [C.A.R.'s Quick Guide](#) to learn about the risk exposure for you and your broker.

Q10: Why does Bay East MLS have a rule prohibiting alcohol while on tour?

A10: Marketing Meetings and Homes-on-Broker Tour are Bay East events. The Association wants agents and Platinum Affiliates who attend events to have a good and safe member experience. Alcohol on tour presents a potential risk and liability to both the Association and agents/brokers.

For quick tips please reference the [C.A.R. Quick Guide to Serving Alcohol at an Open House](#).

If you are seeking additional legal information, C.A.R. has a Legal Q&A available on their [website](#).