

WHAT YOU NEED TO KNOW:
MLS Changes & Policy Updates

SCWMLS
South Central Wisconsin MLS

Field/Policy Changes - August 16, 2024

- **Fields for Subagent and Buyer Agent Commission will be removed.**
  - For properties with an accepted offer prior to 8/17/24, the commission listed in the SCWMLS will be required to be paid under current rules. We recommend printing the MLS full detail report for these properties before noon on 8/16 to document commission offered at time of acceptance.
  - Have a written commission agreement in place for transactions in progress without an accepted offer.
- **Yes/No questions for Variable Commission and Subject to Policy Letter will be removed.**
  - Existing Policy Letters must be removed from MLS.
- **Updated Profile Sheets reflecting MLS changes can be found at SCWMLS.com**
- **References to commission within remarks have been removed for all active/pending/delayed listings.**
  - Any reference to commission within any MLS remarks field will be blocked going forward.
- **Starting August 17th, agents working with a buyer must enter into a written agreement prior to touring a listed property with that buyer.**
  - In ShowingTime, agents will be required to affirm a written agreement will be in place before entering a property for which a showing is scheduled.
  - NAR has tasked the MLS with ensuring agreements are secured before each showing. The SCWMLS reserves the right to request copies of such agreements, and members must submit them immediately upon request.

How to Express Concessions

- Concessions communicated via the MLS are not a replacement for communicating offers of compensation.
- Do not include concessions that are conditioned on payment to a buyer's agent/firm in the MLS.
- Enter concessions in the public or private MLS remarks fields. For transparency, we recommend including concessions within the public remarks.
- Concessions **must** be entered as a dollar amount. Percentages are not allowed.
- Concessions should be specific as to what the concession is for (i.e. roof repair, carpet allowance, closing costs), and should NOT include amounts listed as commission or compensation to others in the listing contract.

FAQ's

Q. Can I add in remarks that the seller is offering a 3% concession for buyer fees at closing without specifying it as commission?

A: If any of the 3% is for the buyer's firm/agent, listing it in the MLS violates NAR settlement terms. Also, concessions must be a dollar amount, not a percentage.

Q: Can ShowingTime be used to communicate commission offers through listing attachments, emails, or text messages?

A: No. Just as associated documents, text messaging, and emails in Paragon cannot be used for this purpose, listing attachments, text messaging, and emails in ShowingTime cannot be used for this purpose either. The language via the NAR Settlement is as follows: *The MLS cannot create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.* As ShowingTime is an integrated MLS product, it cannot be utilized to communicate offers of compensation.

Q: Can I include a link to my website with commission offerings within MLS public or broker-to-broker remarks?

A: No. The NAR settlement prohibits links from the MLS to an offer of compensation to a cooperating/buyer's broker. Moreover, the MLS may not support any non-MLS mechanism for offering compensation to buyer agents. Historically, agents haven't needed to visit other agents' websites for property information, so directing them there via MLS now suggests it is for commission offerings. To limit liability, any reference to a website displaying commission is not allowed.

Q: Can MLS remarks indicate fees a buyer or buyer's representative must pay at closing, like a management fee?

A: Yes, as long as the fees are not conditioned on the payment TO a cooperating/buyer's broker.

Q: For comp purposes, can the commission that was paid be entered in the Seller Concessions field after a listing closes? What about in the broker remarks?

A: No. The Seller Concessions field cannot reflect payments to a cooperating/buyer broker. Commission details cannot be published in the MLS, even after closing. Appraisers or agents should contact the transaction agents for this information.