

Approved by Board of Directors November 21, 2002

**GUIDELINES**  
**Multiple Offers/Counter Offers**

Preamble - The purpose of these Guidelines is to establish fair, consistent, and equitable procedures for the handling of multiple offers received on a property published in the Association's Multiple Listing Service. These guidelines may not be practical in certain situations, such as bank owned properties.

These are Guidelines only. The Agent's role is to present the Seller with all options but the Seller has the authority to instruct the agent in the manner of handling multiple offers, as long as the procedure conforms to our Code of Ethics. The following methods promote objectivity and honest dealing and are generally accepted in the field:

A. Submitting Offers:

A written offer to purchase must be presented in a timely manner to the Seller. The presentation process should be objective and equitable to all parties. Sellers must be given the opportunity to consider all written offers.

- 1) Upon being informed of a written offer, the Listing Office is responsible for promptly submitting the offer to the seller.

In the event the Listing Office/Agent becomes aware of the existence of another offer, prior to acceptance of initial offer, then, with the Seller's permission, every Agent with an offer should be informed of the prior offer.

- 2) In the event the Seller accepts an offer, all Agents with pending offers should be notified that an offer has been accepted.
- 3) At a non-successful buyer's request and with Seller approval, other offer(s) may be placed in back-up position.

Note: For informational purposes, the Association's policy as to the Selling Agent being present is noted in MLS Rule 9.6.

**SUBMISSION OF OFFERS:** Negotiations with the Seller for showing and/or purchase of listed property filed with MLS should be conducted through the listing office prior to contacting the Seller except under the following circumstances:

(1) The Listing Agent or person in charge gives the selling agent specific authority to negotiate directly, or (2) after reasonable effort, (not less than 24 hours), the selling agent cannot contact the Listing Agent.

- (a) Representative of Selling Agent has the right to be present when offer is presented to the principal by listing Agent or person in charge, unless Seller has informed listing Agent, in writing, to the contrary. (MLS Rule 9.6)
- (b) The Listing Agent should submit to the seller all offers until closing unless expressly instructed by the Seller not to present additional offers. (MLS Rule 9.5). Once an offer has been presented, the Seller may direct the Listing Agent not to present additional offers until the negotiations are completed. It is advisable to obtain all such agreements in writing. The Listing Agent should be aware that if the pending offer is from the Listing Company, this may be considered a dual agency situation and Seller should be notified.

## **COUNTER OFFERS**

While the presentation of Offers are totally under the Sellers control, the following methods of multiple offer presentation have proven to be successful and are suggested:

1. If none of the offers are accepted by the Seller, and the Seller wishes to counter, the Seller may:
  - a) Counter one, some or all offers. (Counters need not be the same.)
2. It is suggested that the CAR form be used which states: "Buyer is aware that Seller has made a Counter Offer to more than one prospective purchaser. This Counter Offer is not valid until executed by Buyer within the time limit set forth above, and thereafter, acknowledged and approved by the Seller in writing."

3. In the event the Seller accepts an offer, the other Agents should be notified that an offer has been accepted.

It should be noted that the Seller has the right to establish a time for expiration of Counter Offers. Further, the Seller may choose, the most desirable counter offer returned to the Seller.

## **MEMBERS ARE REMINDED OF THE FOLLOWING ARTICLES OF THE CODE OF ETHICS AND STANDARDS OF PRACTICE**

### **Article 1**

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. *(Amended 1/01)*

- **Standard of Practice 1-6**

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. *(Adopted 1/93, Amended 1/95)*

- **Standard of Practice 1-7**

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlord obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. *(Amended 1/93)*

### **Article 3**

REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. *(Amended 1/95)*

- **Standard of Practice 3-1**

REALTORS®, acting as exclusive agents or brokers of sellers/landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. *(Amended 1/99)*

- **Standard of Practice 3-2**

To be effective, any change in compensation offered for cooperative services must be communicated to the other REALTOR® prior to the time that REALTOR® submits an offer to purchase/lease the property. *(Amended 1/10)*

## **Article 16**

REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. *(Amended 1/04)*

- **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, REALTORS® shall ask prospects whether they are a party to any exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the discretion of prospects. *(Adopted 1/93, Amended 1/04)*

- **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. *(Amended 1/04)*