



Changing firms? Listings stay with the broker

By Margy Grant

July 18, 2016 — As independent contractors, sales associates have a significant amount of autonomy. Unfortunately the independent nature of their positions sometimes leads to confusion about who controls a listing when an agent leaves a firm. Here are answers to the most common questions we receive.

Who controls the listing?

The brokerage owns the listing and has total legal authority over that contract. Many callers to the Florida Realtors Legal Hotline are surprised to learn this fact after they've moved to new firms, but it is the law. What's more, a sales associate may not attempt to induce or counsel sellers to cancel their listing.

Before sales associates sign an independent contractor agreement when joining a brokerage, can negotiate whether the broker will release their listing contracts should they leave.

If the broker keeps the listing when the agent leaves, the broker is responsible for contacting the seller and communicating who will now service the listing.

What's the process for transferring a listing?

The Florida Realtors listing contract is assignable. In the event a broker *agrees* to release a listing when a sales associate changes firms, two steps are recommended. And they should occur as close together as possible.

First, to legally transfer the listing, the broker must assign the listing to the new firm. This can be done via a letter from one broker to another. At the same time, the listing agent needs to contact the sellers and explain the change in firms. It can be startling to sellers to wake up and see a for sale in their yard bearing the name of a different real estate firm.

Second, once the listing is assigned to the new firm, the former broker needs to sign a listing transfer form to change the listing broker in the MLS. Usually only the broker is authorized to sign an MLS transfer sheet. Listing agents are not allowed to sign their former broker's name.

Is an MLS transfer the same as a legal assignment?

No. Only the former broker can legally grant permission to move a listing, and the broker must do so in writing.

Some feel it could simplify the situation if the first broker simply released and cancelled the first listing agreement so the listing agent could present a new listing agreement to the seller. However, this is not recommended. The seller could refuse to sign the new agreement, costing the listing agent the listing. Following the steps above is a better way to achieve the legal transfer to a new company.

The best advice to any sales associate who is planning to switch firms is to first read your independent contractor agreement. Understand what you and your broker agreed to regarding current listings. If it does not appear as you expected, you are always allowed to speak to your broker about what the two of you could agree to going forward. *Margy Grant is Vice President and General Counsel for Florida Realtors*

TRANSFER PROCEDURE

A GACAR Member transferring from one Broker to another Broker needs to complete the following steps:

1. Transfer your license to your New Broker with the State. Complete DBPR's RE10 or RE11 (Mail or Fax to DBPR 850-488-8040).
2. Once your license is transferred in DBPR, notify GACAR by returning the following completed forms: **(1) Transfer Form; (2) Screen shot/copy of your license transfer from DBPR; (3) Listing Transfer Form (*)**; and **(4) \$75 transfer fee (payable to GACAR).**

(*) NOTE: Regarding Page Three of the Transfer Packet "**Listing Transfer Form**", if you have no listing(s) to transfer, please indicate "**N/A**" on the form. Be sure to include the proper signatures, submit with your completed paperwork.

Return **ALL** completed forms to: **EMAIL:** Carla Hill, chill@gacar.com OR **FAX:** (352) 331-7911
OR **OFFICE:** GACAR 1750 NW 80 Blvd, Gainesville, FL 32606.

MLS Rules and Regulations state the policy regarding MLS Listings:

Section 18.3 Transfer a Listing: Association transferring from one Office to another MLS Office must adhere to the following procedures:

- A. Obtain a letter or Listing Transfer Form (page 3 of Transfer Packet) from the former Broker giving permission to transfer a listing. It is not necessary to withdraw these listings; the Broker code edit will be completed by the GACAR/MLS Staff. A copy of the Listing Transfer must be submitted to GACAR/MLS.
- B. A signed contract or letter must be obtained from the Owners stating that they agree to have their listings transferred to the new Office/Broker.
- C. Once transferred, it's the responsibility of the new Office to make appropriate revisions.

TRANSFER NOTIFICATION

DATE: _____ NRDS #: _____ LICENSE #: _____

Effective Date for Transfer: _____ Supra eKey Serial # (if applicable) _____

MEMBER (Requesting Transfer): _____

MEMBER Mailing Address/City/ST/ZIP: _____

MEMBER "Primary" Phone Number: _____ Work Cell

MEMBER "Primary" Email: _____ Work Personal

OFFICE Name (New): _____

OFFICE Address/City/ST/Zip (New): _____

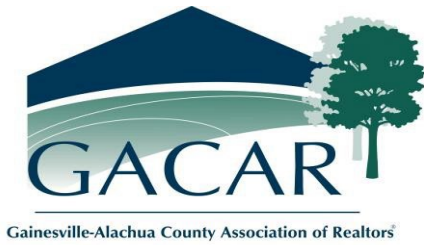
BROKER Name (New): _____

BROKER Email: _____ **BROKER** Phone: _____

OFFICE USE:

Copy DBPR License Received Listing Transfer Forms (Pgs 2 & 3) Received \$75 Payment Received Transfer Proc

GZ Conf # _____ Member/Broker Notified Email



**Gainesville-Alachua County
Association of REALTORS[®], Inc.**
1750 NW 80th Boulevard * Gainesville, Florida 32606
Telephone: (352) 332-8850 Fax: (352) 331-7911
E-mail: chill@gacar.com Website: GACAR.com

CREDIT CARD AUTHORIZATION FORM

GAINESVILLE-ALACHUA COUNTY ASSOCIATION OF REALTORS
PHONE: (352) 332-8850 - FAX: (352) 331-7911
RETURN BY EMAIL TO: Carla S Hill, chill@gacar.com

GACAR ITEM/PURCHASE	AMOUNT	VISA	MC	AMEX	DISCOVER
TRANSFER FEE	\$75.00				

DATE: _____

I AUTHORIZE THE GAINESVILLE-ALACHUA COUNTY ASSOCIATION OF REALTORS TO CHARGE MY CREDIT CARD ACCOUNT IN THE AMOUNT OF \$ _____ FOR THE PURPOSE(S) INDICATED ABOVE.

MEMBER _____

CREDIT CARD # _____ EXP ____ / ____ CVS _____

NAME ON CARD _____

BILLING ADDRESS FOR CREDIT CARD ACCOUNT

_____ ZIP _____

PHONE _____

EMAIL _____

Phone Order Office – Check / Credit /Cash Check # _____

SIGNATURE _____ DATE ____ / ____ / ____

Rec'd: _____ Proc: _____ GZ Conf # _____ CC: Member Transfer Processed