



## **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 associates 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 member transferring from one firm to another firm should follow the following steps:

1. Fill out form RE10 or RE11 with Broker. Mail or Fax to DBPR.
2. Notify GACAR/MLS by returning the Transfer Form, a copy of the R10 or RE11 and the \$75.00 Transfer fee payable to GACAR.
3. MLS Rules and Regulations state the policy regarding MLS listings.

### **Section 18.3 Transfer a Listing**

**Associate transferring from one office to another MLS office must adhere to the following procedures:**

- A. Obtain a letter or Listing Transfer Form from the former broker giving permission to transfer the listings. It is not necessary to withdraw these listings; the broker code change will be done by the MLS Staff. A copy must be submitted to 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.**
- C. It is the responsibility of the new office to make appropriate revisions.**

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## TRANSFER NOTIFICATION

Date: \_\_\_\_\_

To: Gainesville-Alachua County Association of REALTORS  
1750 NW 80<sup>th</sup> Boulevard  
Gainesville, FL 32606

Name: \_\_\_\_\_ License no.: \_\_\_\_\_

Please make the transfer effective: \_\_\_\_\_

Supra EKey serial# \_\_\_\_\_ (Firm ID must be changed)  
found in your ekey app at the top of your screen example: Basic123456

New Firm Name: \_\_\_\_\_

New Email address: \_\_\_\_\_

New Cell phone #: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



# Listing Transfer Form

For: \_\_\_\_\_  
Agent's Name

### INSTRUCTIONS

**Original Listing Broker:** Complete Section A and/or B, whichever is applicable, in its entirety. Please acknowledge if you will be releasing the agent's **assets** along with their listings. **Assets** are defined as any CMAs, saved Searches and Prospects.

**New Listing Broker:** Complete Section C in its entirety. Attach additional sheet or printout if necessary

**Section A: Listing(s) remain with Broker** **I withhold all assets associated with the agent**

The following listings are being retained by me, \_\_\_\_\_,  
broker of \_\_\_\_\_, and are being assigned to the following agent(s).

MLS#	Property Address	Original Agent's Name	New Agent's Name
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

\_\_\_\_\_  
Broker's Printed Name \_\_\_\_\_ Broker's Signature \_\_\_\_\_ Date

**Section B: Listing(s) are Released to Agent** **I release all asset associated with the Agent**

The following listings are being released by me, \_\_\_\_\_,  
broker of \_\_\_\_\_, to be transferred with the listing agent to their new firm.

MLS#	Property Address	Agent's Name
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
Broker's Printed Name \_\_\_\_\_ Broker's Signature \_\_\_\_\_ Date

**Section C: New Broker's Acceptance of Listing and applicable Assets**

The following listings are being accepted by me, \_\_\_\_\_,  
broker of \_\_\_\_\_, as a result of being transferred with the listing agent from their old firm.

MLS#	Property Address	Agent's Name
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
Broker's Printed Name \_\_\_\_\_ Broker's Signature \_\_\_\_\_ Date