

BEST PRACTICES: developer owned properties

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- South Florida is a unique market where many sales include developer owned inventory and new construction
- Make sure your business practices and contracts get you paid
- Compensation models and amounts, if any, are always fully negotiable and are not set by law
- Like compensation amounts, the compensation models a brokerage uses are independent and unilateral business decisions

LISTING BROKERS

- **LISTING AGREEMENTS SIGNED BEFORE AUGUST 17, 2024:**
 - Use a compensation disclosure form to comply with the NAR settlement and rule changes to the SEFMLS
- **LISTING AGREEMENTS SIGNED ON OR AFTER AUGUST 17, 2024:**
 - Use the new Florida REALTORS®' forms or your own that comply with the new practice changes.

BUYER BROKERS

- **BEFORE AUGUST 17, 2024:**
 - Not required, but best practice is to use a compensation disclosure form to comply with the NAR settlement and forthcoming rule changes to the SEFMLS
- **ON OR AFTER AUGUST 17, 2024:**
 - Use the new Florida REALTORS®' forms or your own that comply with the new practice changes.
 - **Buyer broker cannot be paid more than what is in the buyer broker agreement**
 - **Option 1:** buyer and buyer broker sign a modification to the agreement.
 - Generally, amendments are permissible to contracts as long as they are agreed upon, transparent, and legally compliant with the settlement as well as federal, state, and local laws, rules, and regulations. NAR cautions against these amendments to mitigate risk, but the NAR Settlement Agreement does not prohibit it.
 - **Option 2:** buyer approves multiple compensation options on the buyer broker agreement - including one for "developer owned properties" - so that the compensation is "objectively ascertainable" and not "open ended"

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