

REALTOR®-Builder Cooperative Sales Guidelines

*Volusia Home Builders Association
Daytona Beach Area Association of REALTORS®
West Volusia Association of REALTORS®
New Smyrna Beach Board of REALTORS®*

Preamble

It is in the interest of the REALTOR® to establish clearly and unequivocally with the Builder the relationship which exists between the REALTOR® and the prospective home buyer.

It is in the interest of the Builder for the REALTOR® to know as much as possible about his or her product, special features, warranty programs and any additional information which improves the marketability of the Builder's product.

It is in the interest of the Builder and REALTOR® for the REALTOR® to provide the Builder with buyer reaction to properties and/or suggestions for improving the marketability of property.

It is in the interest of both Builder and REALTOR® that Builder and REALTOR® observe a relationship of mutual respect and professionalism, and that prospective home buyers observe a relationship of mutual respect and professionalism between the Builder and REALTOR®.

Article 1: Definitions

Builder: the Builder or Builder's representative.

Buyer-broker: the real estate agent and firm retained to represent the Purchaser.

Client: a principal in the transaction, who has engaged the professional services and advice of a REALTOR® and whose interests are protected by the specific duties and loyalties of a fiduciary relationship through an expressed agency agreement (written or oral).

Customer: a principal in the transaction who receives support services without an expressed agency agreement (written or oral) with a REALTOR®.

AOR: one or all of the three local associations of REALTORS® in Volusia County, i.e., the Daytona Beach Area Association of REALTORS®, the West Volusia Association of REALTORS®, and the New Smyrna Beach Board of REALTORS®.

VHBA: the Volusia Home Builders Association.

MLS: the Multiple Listing Service of an AOR.

Member: REALTOR® member of an AOR or Builder member of the VHBA.

Property: any residential property, including single-family, condominium or multi-family.

Prospective Purchaser: a party, either Client or Customer, who is interested in purchasing real estate.

REALTOR®: the REALTOR® or his licensed agent.

REALTOR®-Builder Committee: the joint committee comprised of AOR and VHBA members, as appointed separately by the governing bodies of each organization.

Article 2: Preamble

Section 1. These Guidelines are established for the mutual benefit of members of the AOR and VHBA to promote high standards of conduct in real estate transactions, and to serve as the public's guarantee of business integrity and responsibility.

Article 3: General Provisions

Section 1. These Guidelines shall be reviewed annually by the AOR and VHBA to determine if they are current and should continue in force the following calendar year.

Section 2. The Guidelines shall be binding upon the members of the AOR and VHBA who subscribe to them with their constituent organization, and shall remain in effect until revoked in writing and communicated, accordingly, to the respective organization.

Section 3. The type of sales contract to be used between a Builder and a Prospective Purchaser shall be at the sole discretion of the Builder.

Section 4. In accordance with Florida Law, the REALTOR® agrees to provide the Builder with any disclosures required by Florida Statute 475.278, Brokerage Relationships, upon introduction to the Builder.

Article 4: Showing and Registration

Section 1. The registration procedure, as detailed herein, applies to Prospective Purchasers registered by either the REALTOR® or Builder.

Section 2. The REALTOR® must personally take his Prospective Purchaser to the property for the Prospective Purchaser's first inside inspection of the property or first on-site inspection of a lot, unless other arrangements have been made with the Builder.

Section 3. At the time of registration, it is the REALTOR®'s responsibility to present to the Builder a written notice (e.g., memo, Builder's registration form, e-mail, letter or business card) giving the name of the Prospective Purchaser, and the date and time of showing. It is the Builder's responsibility to present to the REALTOR®, in writing, specific conditions, if any, under which the Builder accepts the REALTOR®'s registration of the prospect. Such conditions may include, for example, whether the Builder requires the REALTOR® to present the prospect personally, the extent of the REALTOR®'s involvement in the showing of the Builder's property, the REALTOR®'s involvement in contract negotiations, and whether or not the Builder will honor the registration of a Prospective Purchaser for all the Builder's sites.

Section 4. Should the REALTOR® sell either the specific property shown by the REALTOR®, or a property to be built from the Builder's models or plans, or the Prospective Purchaser's plans, the assumption is that the REALTOR® is due a commission, provided the sales contract is executed within a reasonable period of time (see Section 5 of this article).

Section 5. A reasonable period of time is construed to be ninety (90) days from the date of initial registration or extension thereof in the event of registration of a Prospective Purchaser's name.

Section 6. A registration of a Prospective Purchaser will be extended by an additional thirty (30) day period or such time as both parties agree by written notice, e-mail, or facsimile from the REALTOR® to the Builder, without the need of an additional property visit by the REALTOR® or Prospective Purchaser.

Section 7. If a showing takes place during an open house conducted by a REALTOR® or a REALTOR®'s representative, the Builder should provide the "Open House Registration Form" developed jointly by the Home Builders Association and the AOR's. Each home buyer/prospect should register before touring the premises. While it is the REALTOR®'s responsibility to notify the Builder that he or she represents the home buyer/prospect, the Builder should verify whether or not each prospect is represented by a REALTOR®. The registration form should include a place for the real estate agent's name and company.

Upon registration during an open house, the Builder or the Builder's representative may make available, in writing, those conditions, if any, under which he or she will accept the registration of the prospect. Such conditions may include, for example, whether the Builder requires the REALTOR® to present the prospect personally, the extent of the REALTOR®'s involvement in the showing of the Builder's property, the REALTOR®'s involvement in contract negotiations, and whether or not the Builder will honor the registration of a Prospective Purchaser for all the Builder's sites.

Section 8. If the Prospective Purchaser who has been registered by either the Builder or the REALTOR® returns to the property on his own within ninety (90) days of the registration or thirty (30) days of the extension thereof, and proceeds to purchase the property, the assumption is that the REALTOR® is due a commission, in accordance with these Guidelines.

Section 9. If a Prospective Purchaser who has been registered by either the Builder or the REALTOR® returns to the property with another REALTOR®, and should this REALTOR® submit an offer acceptable to the Builder, any dispute which may arise over the payment of commissions will be referred to either:

- a) the AOR of which the two REALTORS® are members; or
- b) the AOR in accordance with Interboard Arbitration Procedures as set forth in the most recent version of the Code of Ethics and Arbitration Manual of the National Association of REALTORS® if the two REALTORS® hold primary memberships in different AOR's.

It is understood, however, that in no event shall the commission paid in such a case exceed the commission that would have been paid by the Builder to the original REALTOR®.

Section 10. Deposits should be agreed upon by the Builder and the customer and are to be held by the Builder unless otherwise agreed upon by the parties.

Article 5: Basis for Computing Commission

Section 1. Neither the AOR's nor VHBA have recommended rates of commission or recommended commission splits.

Section 2. At the time an appointment is set for showing a property, it is the joint obligation of the REALTOR® and Builder to establish the basis of broker compensation unless, however, the property is listed in the MLS, in which case a blanket unilateral offer of compensation already exists.

Section 3. Original items in models should be described as such, and it is the obligation of the REALTOR® to determine which items are included in the sales price.

Section 4. The Builder shall disclose to the REALTOR®, prior to the signing of the sales contract, whether the selling commission is computed on (a) the base price of the property; (b) the base price plus optional items; and whether the base price includes the cost of the lot.

Section 5. Prior to the acceptance of the sales contract, the Builder and REALTOR® shall sign an agreement indicating the amount of compensation due to the REALTOR®.

Article 6: Handling of Disputes

Section 1. If a commission dispute arises between REALTORS® of different firms within the same AOR, either REALTOR® may submit a Request for Arbitration to the Grievance Committee of that AOR.

Section 2. If a commission dispute arises between REALTORS® who hold primary memberships in different AOR's, either REALTOR® may submit the dispute to the AOR accordance with Interboard Arbitration Procedures as set forth in the most recent version of the Code of Ethics and Arbitration Manual of the National Association of REALTORS® .

Section 4. The Arbitration Hearing Panel will notify the Builder of its decision within ten (10) business days after the Hearing Panel's decision is final. The Builder will then have twenty (20) business days to comply with the panel's decision.

Section 5. A commission or other dispute between members of an AOR and VHBA shall be referred to a REALTOR®-Builder Arbitration Panel established for this purpose by the respective organizations. The panel shall consist of three Builder members and two REALTOR® members in even-numbered years and two Builder Members and three REALTOR® members in odd-numbered years. A total of four votes will be required to reach a decision on any dispute brought before the panel.

Section 6. Decisions of the REALTOR®-Builder Arbitration Panel will be communicated to the parties within three (3) working days of the date they are made. The parties will then have thirty (30) working days to comply with the panel's decision.

Section 7. Any member of the AOR or VHBA who has subscribed to these Guidelines and refuses to comply with these Guidelines, or fails to comply with the findings of the REALTOR®-Builder Arbitration Panel, shall be subject to disciplinary action by the Board of Directors of the VHBA or AOR, as applicable. Such disciplinary action may include suspension or termination of membership, as provided in the Constitution and Bylaws of each organization.

Article 7: Amendments

Section 1. These Guidelines may be amended upon the approval of the governing bodies of the AOR's and VHBA.

General Guidelines for Builders and REALTORS®

FOR REALTORS®

Section 1. The REALTOR® should allow the Builder or Builder's representative to handle the presentation of the property and final walk through.

Section 2. Once a contract has been signed with the Builder, the REALTOR® should allow the Builder to determine the extent of his or her involvement from that point forward in the transaction.

Section 3. REALTORS® should familiarize themselves with the Builder's product and services before taking buyers on a showing.

Section 4. REALTORS® should instruct home buyers to notify the Builder or Builder's representative as soon as possible that they are working with a REALTOR®.

FOR BUILDERS

Section 1. The Builder should understand the REALTOR®'s expertise on the resale market and the assistance he or she may provide on financing, pre-qualification and coordination of the buyer's move.

Section 2. Builders should provide REALTORS® with all necessary information to promote and sell the Builder's property.

Section 3. The Builder or Builder's representative should maintain open communication with the REALTOR® throughout the construction process.

Section 4. The Builder should notify the REALTOR® immediately if there is a problem with the method used to introduce and register a prospective buyer.

My company hereby subscribes to these Guidelines, and I / we agree to abide by the provisions thereof in a reciprocal manner with cooperating REALTOR® and Builder firms.

Name of Representative (print)

Company / Firm Name

REALTOR®

Builder

Date: _____

Signature

REALTOR® firms send signed form to your primary association:

Daytona Beach Area Association of REALTORS®
1716 Ridgewood Ave.
Holly Hill, FL 32117

West Volusia Association of REALTORS®
425 S. Volusia Ave.
Orange City, FL 32763

New Smyrna Beach Board of REALTORS®
725 W. Canal Street
New Smyrna Beach, FL 32168

Builder firms send signed form to:

Volusia County VHBA
3520 W. International Speedway Blvd.
Daytona Beach, Florida 32124