

Open Houses in a Post-NAR Settlement World

A practice change required by the NAR settlement is that all MLS participants working with a buyer must enter into a written agreement before the buyer tours any home. This has raised questions about how agents should handle visitors to open houses. To help members be prepared, C.A.R. has created this FAQ about how to hold open houses in a post-NAR settlement world.

Can a listing agent hold an open house after the implementation of the NAR Settlement?

Yes.

Can another agent in the same brokerage company as the listing agent hold an open house for the listing agent?

Yes.

Is an agent holding an open house required to have every visitor who enters the open house sign a registration/log-in sheet, a non-agency agreement, or a buyer representation agreement?

The answer varies depending on the type of relationship (if any) that the agent and visitor desire to enter into. And good news – C.A.R. has 3 different forms to help with these different situations!

The best practice is to ask adult visitors to sign in. Starting in late June 2024, if C.A.R.'s new Open House Visitor Non-Agency Disclosure and Sign-In (C.A.R. Form OHNA-SI) is used, the visitor will be acknowledging that the agent at the open house is acting on behalf of the seller and is not representing the buyer. The visitor also can use the OHNA-SI to identify if they are working with another agent, so the open house agent or listing agent will know who to contact about future discussions about the visitor's interest in the property.

If the open house agent finds out that an unrepresented visitor would like to create a working relationship with the agent, the open house agent may want to ask the visitor to sign either a limited or a full buyer representation agreement. The new Limited Property Representation and Broker Compensation Agreement (C.A.R. Form LPRBC) will be released in late June 2024 and would only apply to the open house property, can last no longer than 30 days, and is non-exclusive only. The Buyer Representation and Broker Compensation Agreement (C.A.R. Form BRBC) can apply to the open house property only or multiple properties, can last for up to 3 months (but may be extended), and may be either for exclusive or non-exclusive representation.

If the visitor refuses to sign anything but instead only wants to look at the property, then it is advisable for the open house agent to refrain from providing any information about the property other than what is on the information sheet prepared by the listing agent. Engaging beyond that may lead the visitor to believe that the open house agent is acting as their agent. If the visitor asks for information beyond what is contained in the information sheet, the open house agent should tell the visitor that they cannot provide such information unless the visitor is willing to sign in.