

PROCURING CAUSE & COMPENSATION

Frequently Asked Questions



When a listing broker offers compensation to cooperating brokers in State-Wide Multiple Listing Service, payment is owed only if the cooperating broker is the procuring cause of a sale or lease.

Q *What does “procuring cause” mean?*

Answer: According to the National Association of REALTORS®, a real estate broker is the procuring cause and entitled to compensation if the broker produces a ready, willing, and able buyer to purchase a property under price and terms that are acceptable to the seller in an unbroken chain of events.

NAR defines procuring cause as, “The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object. The inducing cause; the direct or proximate cause. Substantially synonymous with “efficient cause.”

Q *What is an example of procuring cause?*

Answer: A cooperating broker notifies a buyer or tenant about a new listing. The cooperating broker makes an appointment, shows the property, and prepares a purchase and sales agreement for the buyer or assists a tenant with a lease in an unbroken chain of events. The transaction results in a sale or lease, and the cooperating broker is entitled to the compensation that is offered in MLS.

Q *What are some examples of potential procuring cause disputes?*

Answer:

- » Buyers work with a real estate licensee for months then impulsively drop by an open house without their designated client representative and want to make an offer.
- » A buyer sees a property a couple of times with a listing broker then decides that he needs representation before making an offer.
- » A buyer sees a property with a cooperating broker but decides not to make an offer. A month later, the buyer decides to work with another cooperating broker and wants to schedule a showing to see the same property again.
- » A buyer signs an exclusive buyer representation contract. The buyer contacts the listing broker directly to arrange showings and ask questions about the property. The listing broker does not ask whether the buyer is exclusively represented. The buyer representative prepares a purchase and sales agreement for the buyer.

PROCURING CAUSE & COMPENSATION - FAQs

What should I do if a procuring cause situation arises?

Answer:

Cooperating broker:

- » Be up front. Let the listing broker know that the buyer has seen the property before with the listing broker or another cooperating broker.
- » Make sure that the buyer or tenant clearly informed the other cooperating broker why the buyer or tenant ended the relationship.
- » Negotiate with the listing broker. If the listing broker agrees to pay you some or all of the compensation, sign a RIAR Compensation to Cooperating Brokerage Form.
- » If the buyer agrees, make the purchase and sales agreement or lease subject to the seller or landlord paying x amount to the cooperating broker. The agreement cannot be used to change what the listing broker is offering. It can be used to require a seller or landlord to pay.
- » Review the NAR Arbitration Factors as a self-assessment to help determine how strong your claim is.
- » File an arbitration request with your local REALTOR® association within 180 days after the transaction closes. You'll have an opportunity to mediate your dispute with a trained mediator.

Listing broker:

- » Review the NAR Arbitration Factors as a self-assessment to help determine how strong your claim is.
- » Negotiate with the cooperating broker. If the listing broker agrees to pay you some or all of the compensation, sign a RIAR Compensation to Cooperating Brokerage Form.
- » If the buyer worked with more than one cooperating broker, pay the current cooperating broker and let the cooperating brokers arbitrate with each other or file an arbitration request with your local REALTOR® association within 180 days after the transaction closes and let a mediator or arbitration hearing panel determine who is entitled to the co-broke compensation.

Am I automatically the procuring cause because . . . ?

Answer: According to NAR, there is no one factor that makes a real estate licensee the procuring cause. NAR has more than [20 procuring cause factors](#). None of these factors automatically determines whether a licensee is entitled to compensation from the listing broker:

- » Notifying a buyer that a new listing meets the buyer's search terms.
- » Showing the property to a buyer at an open house or private showing.
- » Helping a buyer become preapproved for financing.
- » Having a signed buyer representation contract with a buyer.
- » Preparing a purchase and sales agreement or lease.
- » Being listed as the cooperating broker on a purchase and sales agreement or lease and/or in MLS.
- » Being a friend, relative, attorney, or business colleague of the buyer.
- » Are there ways to prevent procuring cause disputes.

Cooperating brokers:

- » Explain to buyers how compensation works, and encourage buyers to contact you to schedule showings.
- » Consider using a buyer representation contract. Even if a listing broker is not willing to compensate you, you can still be entitled to compensation from the buyer.
- » Communicate promptly with buyer clients and the listing broker.

Listing brokers:

- » Clearly explain to a buyer or tenant whom you represent in the transaction.
- » Ask a buyer or tenant if he or she is working exclusively with another real estate licensee.

For more information, contact the RIAR Legal Department at 401-432-6945 or email monica@rirealtors.org.