

NOTES FROM THE LEGAL HOTLINE

Massachusetts Association of Realtors®

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Q. If the MLS states that all offers are due by a specific date and time and my buyer submits an offer after that, does the listing agent need to present that offer?

A. Maybe. The Massachusetts Real Estate Regulations require that a licensee submit all offers to purchase or rent real property to the owner of the property upon receipt of such offers. This obligation is not absolute, however, and may be modified through an instruction from the seller. A seller may provide their agent with instructions related to the sale of their property, including a specific time that offers are due by. If an offer is received after the time set by the seller, an agent *may* not be obligated to present that offer based upon the seller's instruction. A listing agent's fiduciary obligations require them to act in their client's best interests, so even if an offer comes in after the deadline, it may be a best practice to ask the seller if they would like the late offer presented. It is important to remember that any limitations placed on the legal obligations of the listing agent must come at the direction of the seller. Any seller instructions should be memorialized in writing with as much detail as possible.

Q. Can a salesperson hold a leadership position, such as a Vice President or Team Leader, within a brokerage?

A. Yes, there is no legal prohibition on a salesperson from holding a leadership position within a brokerage. The brokerage must maintain a broker of record with a valid Massachusetts Broker's License, but the internal hierarchy may be determined by the broker. A salesperson in a position of this nature may not assume those responsibilities of the broker of record, such as oversight of other salespersons and maintaining the escrow account. Regardless of the titles held by other individuals within the brokerage, the ultimate oversight and authority rests with the broker of record.

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