



# MLS Rules And Regulations (MLS Rules)

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The Southwest Louisiana Association of REALTORS Multiple Listing Policy

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The Southwest Louisiana Association of REALTORS Multiple Listing Policy

### **PART : GENERAL PROVISIONS**

#### **1. AUTHORITY**

#### **2. THE AOR/ MLS COMMITTEE**

#### **3. PURPOSE**

The Southwest Louisiana Association of REALTORS multiple listing service, is: a facility for the orderly correlation and dissemination of listing information so that “Participants” and “Other Subscribers,” as defined herein, may better serve their customers, clients, and the public; a means of enhancing cooperation among Participants and Other Subscribers; a means by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; and, a means by which Participants engaging in real estate appraisal contribute to common databases. Any matter not specifically addressed in these MLS Rules shall be governed by the policies and procedures set forth by the NATIONAL ASSOCIATION OF REALTORS® (“NAR”), including but not limited to the NAR “Handbook on Multiple Listing Policy,” as from time to time amended, and which are incorporated herein by reference. The NAR Handbook on Multiple Listing Policy shall in no instance be interpreted as requiring any constituent member association, such as MIAMI, or association member to adopt or follow any policy which would contravene law applicable to MIAMI or association member.

#### **4. SUPERVISION & EFFECTIVE DATE OF CHANGES IN MLS RULES**

SEFMLS is supervised by the Residential and BROWARD-MIAMI Boards of Governors of MIAMI, which supervision includes making changes in, and enforcing, the MLS Rules, subject to the final approval of the Corporate Board of Directors of MIAMI. Any changes to the MLS Rules are effective upon approval by the Corporate Board of Directors of MIAMI. Participants’ and Subscribers’ ongoing and continued use of and access to the SEFMLS constitutes their consent to be bound by the MLS Rules, both as they exist now and as may be amended in the future.

## **5. DEFINITIONS**

## **6. PARTICIPATION AND AUTHORIZED ACCESS**

## **7. APPLICATION FOR PARTICIPATION AND SUBSCRIPTION**

## **8. CATEGORIZATION OF SWLARMLS SERVICES, INFORMATION, AND PRODUCTS**

## **9. SWLARMLS FEES, DUES, AND CHARGES**

## **10. REGIONAL AND RECIPROCAL AGREEMENTS**

## **11. COMPENSATION, IF ANY, IS NOT COMMUNICATED USING SWLARMLS**

## **12. LOGOS AND SERVICE MARKS**

## **13. LISTING PROCEDURES**

### **Section 1 Listing Procedures**

Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the service area of the multiple listing service, and are taken by Participants on *(indicate form[s] of listing[s] accepted by the Service — See Notes 1 and 2)* shall be delivered to the multiple listing service within \_\_\_\_\_ (usually 48) hours after all necessary signatures of seller(s) have been obtained:

- a. single family homes for sale or exchange
- b. vacant lots and acreage for sale or exchange
- c. two-family, three-family, and four-family residential buildings for sale or exchange

**Note 1:** The multiple listing service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:

- may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants
- assure that no listing form filed with the multiple listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller)

The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to cooperate with other Participants of the multiple listing service acting as subagents, buyer agents, or both.

The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service.

The different types of listing agreements include:

- exclusive right-to-sell
- open
- exclusive agency
- net

The service may not accept **net listings** because they are deemed unethical and, in most states, illegal. **Open listings** are not accepted, except where required by law, because the inherent nature of an open listing. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interest of their clients.

The **exclusive right-to-sell** listing is the form of listing where the seller authorizes exclusive authorization to the listing broker to cooperate with other brokers in the sale of the property.

The **exclusive agency** listing also authorizes the listing broker, as exclusive agent, to cooperate with other brokers in the sale of the property, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis. Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations.

**Note 2:** A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.

**Note 3:** A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. (*Amended 8/24*) **M**

### **Section 1.01 Clear Cooperation**

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS Participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (*Adopted 11/19*)

**Note:** Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.3 of the NAR model MLS rules, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants. **M**

## Section 1.1 Types of Properties

Following are some of the types of properties that may be published through the service, including types described in the preceding paragraph that are required to be filed with the service and other types that may be filed with the service at the Participant's option provided, however, that any listing submitted is entered into within the scope of the Participant's licensure as a real estate broker: *(Amended 11/91)* **O**

- residential
- residential income
- subdivided vacant lot
- land and ranch
- business opportunity
- motel-hotel
- mobile homes
- mobile home parks
- commercial income
- industrial

### Section 1.1.1 Listings Subject to Rules and Regulations of the Service

Any listing taken on a contract to be filed with the multiple listing service is subject to the rules and regulations of the service upon signature of the seller(s). **R**

## Section 1.2 Detail on Listings Filed with the Service

A listing agreement or property data form, when filed with the multiple listing service by the listing broker, shall be complete in every detail which is ascertainable as specified on the property data form. **R**

### Section 1.2.0. Accuracy of Listing Data

Participants and Subscribers are required to submit accurate listing data and required to correct any known errors. **M**

### Section 1.2.1 Limited Service Listings

Listing agreements under which the listing broker will not provide one, or more, of the following services:

- a) arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b) accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)
- c) advise the seller(s) as to the merits of offers to purchase
- d) assist the seller(s) in developing, communicating, or presenting counter-offers
- e) participate on the seller's(s') behalf in negotiations leading to the sale of the listed property

will be identified with an appropriate code or symbol (e.g., LR or LS) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**Note:** Adoption of Section 1.2.1, Limited Service Listings, is optional and a matter to be determined by each MLS. *(Adopted 5/01)* **O**

### Section 1.2.2 MLS Entry-only Listings

Listing agreements under which the listing broker will not provide any of the following services:

- a) arrange appointments for cooperating brokers to show listed property to potential purchasers but instead gives cooperating brokers authority to make such appointments directly with the seller(s)
- b) accept and present to the seller(s) offers to purchase procured by cooperating brokers but instead gives cooperating brokers authority to present offers to purchase directly to the seller(s)

- c) advise the seller(s) as to the merits of offers to purchase
- d) assist the seller(s) in developing, communicating, or presenting counter-offers
- e) participate on the seller's(s') behalf in negotiations leading to the sale of the listed property

will be identified with an appropriate code or symbol (e.g., EO) in MLS compilations so potential cooperating brokers will be aware of the extent of the services the listing broker will provide to the seller(s), and any potential for cooperating brokers being asked to provide some or all of these services to listing brokers' clients, prior to initiating efforts to show or sell the property.

**Note:** Adoption of Section 1.2.2, MLS Entry-only Listings, is optional and a matter to be determined by each MLS. (*Adopted 5/01*) **O**

### **Section 1.3 Multiple Listing Options for Sellers**

**Office Exclusive:** Where the seller has directed the listing broker to not publicly market their property and to not disseminate it through the MLS to other MLS Participants and Subscribers, the Participant may then take the listing as an office exclusive exempt listing and such listing shall be filed with the MLS, subject to its local filing rules, but not disseminated to other MLS Participants and Subscribers.

**Delayed Marketing:** Where the seller has directed the listing broker to delay the public marketing of their property through IDX and syndication for [insert local delayed period as set by MLS's unfettered local discretion]. A delayed marketing exempt listing shall be filed with the MLS, subject to its local filing rules, and disseminated to other MLS Participants and Subscribers. The listing broker shall not be precluded from marketing the delayed marketing exempt listing in a manner consistent with the seller's choice.

**Exempt Listing Disclosure:** The filing of an exempt listing (office exclusive or delayed marketing) with the MLS must be pursuant to a certification, signed by the seller, obtained by the listing broker which includes:

- disclosure about the professional relationship between the Participant and the seller;
- acknowledgement that the seller understands the MLS benefits they are waiving or delaying with the exempt listing, such as broad and immediate exposure of their listing through the MLS; and
- confirmation of the seller's decision that their listing not be publicly marketed and disseminated by the MLS to other MLS Participants and Subscribers as an office exclusive listing or that their listing will not have immediate public marketing through IDX and Syndication as a delayed marketing listing.

Multiple Listing Options for Sellers requirements only apply to listing types that are subject to mandatory submission pursuant to the MLS local rules.

**Note 1:** The Multiple Listing Options for Sellers policy is designed to give consumers greater choice and flexibility in marketing their homes for sale. Each MLS has the unfettered local discretion in determining what is most suitable for their marketplace regarding a Delayed Marketing Exempt listing which includes adopting "0" days or to not implement the Delayed Marketing aspects of the Multiple Listing Options for Sellers policy.

**Note 2:** MLS Participants must distribute Office Exclusive Exempt listings through the MLS to other MLS Participants and Subscribers within (1) one business day after the listing has been publicly marketed. *See Section 1.01, Clear Cooperation.* (*Amended 5/25*) **M**

### **Section 1.4 Change of Status of Listing**

Any change in listed price or other change in the original listing agreement shall be made only when authorized in writing by the seller and shall be filed with the service within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) after the authorized change is received by the listing broker. **R**

### **Section 1.5 Withdrawal of Listing Prior to Expiration**

Listings of property may be withdrawn from the multiple listing service by the listing broker before the expiration date of the listing agreement, provided notice is filed with the service, including a copy of the agreement between the seller and the listing broker which authorizes the withdrawal.

Sellers do not have the unilateral right to require an MLS to withdraw a listing without the listing broker's concurrence. However, when a seller(s) can document that his or her exclusive relationship with the listing broker has been terminated, the multiple listing service may remove the listing at the request of the seller. *(Adopted 11/96)* **M**

### **Section 1.6 Contingencies Applicable to Listings**

Any contingency or conditions of any term in a listing shall be specified and noticed to the Participants. **R**

### **Section 1.7 Listing Price Specified**

The full gross listing price stated in the listing contract will be included in the information published in the MLS compilation of current listings, unless the property is subject to auction. *(Amended 11/92)* **M**

### **Section 1.8 Listing Multiple Unit Properties**

All properties which are to be sold or which may be sold separately must be indicated individually in the listing and on the property data form. When part of a listed property has been sold, proper notification should be given to the multiple listing service. **O**

### **Section 1.9 No Control of Commission Rates or Fees Charged by Participants**

The multiple listing service shall not fix, control, recommend, suggest, or maintain Commission rates or fees for services to be rendered by Participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating Participants or between Participants and non-Participants. **M**

### **Section 1.10 Expiration of Listings**

Listings filed with the multiple listing service will automatically be removed from the compilation of current listings on the expiration date specified in the agreement, unless prior to that date the MLS receives notice that the listing has been extended or renewed. *(Amended 11/01)*

If notice of renewal or extension is received after the listing has been removed from the compilation of current listings, the extension or renewal will be published in the same manner as a new listing. Extensions and renewals of listings must be signed by the seller(s) and filed with the service. *(Amended 11/01)* **M**

### **Section 1.11 Termination Date on Listings**

Listings filed with the service shall bear a definite and final termination date, as negotiated between the listing broker and the seller. **M**

### **Section 1.12 Service Area**

Only listings of the designated types of property located within the Service Area of the MLS are required to be submitted to the service. Listings of property located outside the MLS's Service Area will (or will not) be accepted if submitted voluntarily by a Participant, but cannot be required by the service. *(Amended 11/17)*

**Note:** Associations must choose whether the service will accept listings from beyond its service area into the MLS compilation. *(Amended 11/17)* **M**



### **Section 1.13 Listings of Suspended Participants**

When a Participant of the service is suspended from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the suspended Participant shall, at the Participant's option, be retained in the service until sold, withdrawn or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the suspension became effective. If a Participant has been suspended from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the suspended Participant's listings in the MLS compilation of current listing information. Prior to any removal of a suspended Participant's listings from the MLS, the suspended Participant should be advised, in writing, of the intended removal so that the suspended Participant may advise his clients.

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### **Section 1.14 Listings of Expelled Participants**

When a Participant of the service is expelled from the MLS for failing to abide by a membership duty (i.e., violation of the Code of Ethics, association bylaws, MLS bylaws, MLS rules and regulations, or other membership obligations except failure to pay appropriate dues, fees, or charges), all listings currently filed with the MLS by the expelled Participant shall, at the Participant's option, be retained in the service until sold, withdrawn, or expired, and shall not be renewed or extended by the MLS beyond the termination date of the listing agreement in effect when the expulsion became effective. If a Participant has been expelled from the association (except where MLS participation without association membership is permitted by law) or MLS (or both) for failure to pay appropriate dues, fees, or charges, an association MLS is not obligated to provide MLS services, including continued inclusion of the expelled Participant's listings in the MLS compilation of current listing information. Prior to any removal of an expelled Participant's listings from the MLS, the expelled Participant should be advised, in writing, of the intended removal so that the expelled Participant may advise his clients.

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### **Section 1.15 Listings of Resigned Participants**

When a Participant of the service resigns from the MLS, the MLS is not obligated to provide services, including continued inclusion of the resigned Participant's listings in the MLS compilation of current listing information. Prior to any removal of a resigned Participant's listings from the MLS, the resigned Participant should be advised, in writing, of the intended removal so that the resigned Participant may advise his clients.

**O**

### **Section 1.16, Property Addresses**

At the time of filing a listing, Participants and Subscribers must include a property address available to other Participants and Subscribers, and if an address doesn't exist, a parcel identification number can be used. Where an address or parcel identification number are unavailable, the information filed with the MLS must include a legal description of the property sufficient to describe its location. (*Amended 05/21*)

**M**

## **14. SELLING PROCEDURES**

### **Section 2 Showings and Negotiations**

Appointments for showings and negotiations with the seller for the purchase of listed property filed with the multiple listing service shall be conducted through the listing broker, except under the following circumstances:

- a. the listing broker gives the cooperating broker specific authority to show and/or negotiate directly, or
- b. after reasonable effort, the cooperating broker cannot contact the listing broker or his representative; however, the listing broker, at his option, may preclude such direct negotiations by cooperating brokers. (*Amended 4/92*)

**M**

### **Section 2.1 Presentation of Offers**

The listing broker must make arrangements to present the offer as soon as possible, or give the cooperating broker a satisfactory reason for not doing so. (*Amended 4/92*)

**M**



## **Section 2.2 Submission of Written Offers and Counter-offers**

The listing broker shall submit to the seller all written offers until closing unless precluded by law, government rule, regulation, or agreed otherwise in writing between the seller and the listing broker. Unless the subsequent offer is contingent upon the termination of an existing contract, the listing broker shall recommend that the seller obtain the advice of legal counsel prior to acceptance of the subsequent offer.

Participants representing buyers or tenants shall submit to the buyer or tenant all offers and counter-offers until acceptance, and shall recommend that buyers and tenants obtain legal advice where there is a question about whether a pre-existing contract has been terminated. *(Amended 11/05)* **M**

## **Section 2.3 Right of Cooperating Broker in Presentation of Offer**

The cooperating broker (subagent or buyer agent) or his representative has the right to participate in the presentation to the seller or lessor of any offer he secures to purchase or lease. He does not have the right to be present at any discussion or evaluation of that offer by the seller or lessor and the listing broker. However, if the seller or lessor gives written instructions to the listing broker that the cooperating broker not be present when an offer the cooperating broker secured is presented, the cooperating broker has the right to a copy of the seller's or lessor's written instructions. None of the foregoing diminishes the listing broker's right to control the establishment of appointments for such presentations. *(Amended 4/92)* **M**

Where the cooperating broker is not present during the presentation of the offer, the cooperating broker can request in writing, and the listing broker must provide, as soon as practical, written affirmation stating that the offer has been submitted to the seller, or written notification that the seller has waived the obligation to have the offer presented. *(Adopted 11/19)* **M**

## **Section 2.4 Right of Listing Broker in Presentation of Counter-offer**

The listing broker or his representative has the right to participate in the presentation of any counter-offer made by the seller or lessor. He does not have the right to be present at any discussion or evaluation of a counter-offer by the purchaser or lessee (except when the cooperating broker is a subagent). However, if the purchaser or lessee gives written instructions to the cooperating broker that the listing broker not be present when a counter-offer is presented, the listing broker has the right to a copy of the purchaser's or lessee's written instructions. *(Adopted 11/93)* **M**

## **Section 2.5 Reporting Sales to the Service**

Status changes, including final closing of sales and sales prices, shall be reported to the multiple listing service by the listing broker within \_\_\_\_ hours after they have occurred. If negotiations were carried on under Section 2 a. or b. hereof, the cooperating broker shall report accepted offers and prices to the listing broker within \_\_\_\_ hours after occurrence and the listing broker shall report them to the MLS within \_\_\_\_ hours after receiving notice from the cooperating broker. *(Amended 11/11)*

**Note 1:** The listing agreement of a property filed with the MLS by the listing broker should include a provision expressly granting the listing broker authority to advertise; to file the listing with the MLS; to provide timely notice of status changes of the listing to the MLS; and to provide sales information including selling price to the MLS upon sale of the property. If deemed desirable by the MLS to publish sales information prior to final closing (settlement) of a sales transaction, the listing agreement should also include a provision expressly granting the listing broker the right to authorize dissemination of this information by the MLS to its Participants. *(Amended 11/01)*

**Note 2:** In disclosure states, if the sale price of a listed property is recorded, the reporting of the sale price may be required by the MLS.

In states where the actual sale prices of completed transactions are not publicly accessible, failure to report sale prices can result in disciplinary action only if the MLS:

1. categorizes sale price information as confidential and

2. limits use of sale price information to Participants and Subscribers in providing real estate services, including appraisals and other valuations, to customers and clients; and to governmental bodies and third-party entities only as provided below. The MLS may provide sale price information to governmental bodies only to be used for statistical purposes (including use of aggregated data for purposes of valuing property) and to confirm the accuracy of information submitted by property owners or their representatives in connection with property valuation challenges; and to third-party entities only to be used for academic research, statistical analysis, or for providing services to Participants and Subscribers. In any instance where a governmental body or third-party entity makes sale price information provided by the MLS available other than as provided for in this provision, a listing Participant may request the sale price information for a specific property be withheld from dissemination for these purposes with written authorization from the seller, and withholding of sale price information from those entities shall not be construed as a violation of the requirement to report sale prices. *(Adopted 11/11)*

**Note 3:** As established in the Virtual Office Website (“VOW”) policy, sale prices can only be categorized as confidential in states where the actual sale prices of completed transactions are not accessible from public records. *(Adopted 11/11)* **M**

### **Section 2.6 Reporting Resolutions of Contingencies**

The listing broker shall report to the multiple listing service within twenty-four (24) hours that a contingency on file with the multiple listing service has been fulfilled or renewed, or the agreement cancelled. **M**

### **Section 2.7 Advertising of Listings Filed with the Service**

A listing shall not be advertised by any Participant other than the listing broker without the prior consent of the listing broker. **M**

### **Section 2.8 Reporting Cancellation of Pending Sale**

The listing broker shall report immediately to the multiple listing service the cancellation of any pending sale, and the listing shall be reinstated immediately. **M**

### **Section 2.9 Disclosing the Existence of Offers**

Listing brokers, in response to inquiries from buyers or cooperating brokers shall, with the seller’s approval, disclose the existence of offers on the property. Where disclosure is authorized, the listing broker shall also disclose if asked whether offers were obtained by the listing licensee, by another licensee in the listing firm, or by a cooperating broker. *(Amended 11/08)* **O**

### **Section 2.10 Availability of Listed Property**

Listing brokers shall not misrepresent the availability of access to show or inspect listed property. *(Adopted 11/05)* **O**

## **15. REFUSAL TO SELL**

### **Section 3 Refusal to Sell**

If the seller of any listed property filed with the multiple listing service refuses to accept a written offer satisfying the terms and conditions stated in the listing, such fact shall be transmitted immediately to the service and to all Participants. **R**

## **16. PROHIBITIONS**

### **Section 4 Information for Participants Only**

Any listing filed with the service shall not be made available to any broker or firm not a member of the MLS without the prior consent of the listing broker. **M**

#### **Section 4.1 For Sale Signs**

Only the for sale sign of the listing broker may be placed on a property. *(Amended 11/89)* **M**

#### **Section 4.2 Sold Signs**

Prior to closing, only the sold sign of the listing broker may be placed on a property, unless the listing broker authorizes the cooperating (selling) broker to post such a sign. *(Amended 4/96)* **M**

### **Section 4.3 Solicitation of Listing Filed with the Service**

Participants shall not solicit a listing on property filed with the service unless such solicitation is consistent with Article 16 of the REALTORS®' Code of Ethics, its Standards of Practice, and its Case Interpretations.

**Note:** This section is to be construed in a manner consistent with Article 16 of the Code of Ethics and particularly Standard of Practice 16-4. This section is intended to encourage sellers to permit their properties to be filed with the service by protecting them from being solicited, prior to expiration of the listing, by brokers and salespersons seeking the listing upon its expiration.

Without such protection, a seller could receive hundreds of calls, communications, and visits from brokers and salespersons who have been made aware through MLS filing of the date the listing will expire and desire to substitute themselves for the present broker.

This section is also intended to encourage brokers to participate in the service by assuring them that other Participants will not attempt to persuade the seller to breach the listing agreement or to interfere with their attempts to market the property. Absent the protection afforded by this section, listing brokers would be most reluctant to generally disclose the identity of the seller or the availability of the property to other brokers.

This section does not preclude solicitation of listings under the circumstances otherwise recognized by the Standards of Practice related to Article 16 of the Code of Ethics. **M**

### **Section 4.4 Use of the Terms MLS and Multiple Listing Service**

No MLS Participant, Subscriber or licensee affiliated with any Participant shall, through the name of their firm, their URLs, their e-mail addresses, their website addresses, or in any other way represent, suggest, or imply that the individual or firm is an MLS, or that they operate an MLS. Participants, Subscribers and licensees affiliated with Participants shall not represent, suggest, or imply that consumers or others have direct access to MLS databases, or that consumers or others are able to search MLS databases available only to Participants and Subscribers. This does not prohibit Participants and Subscribers from representing that any information they are authorized under MLS rules to provide to clients or customers is available on their websites or otherwise. *(Adopted 11/07)* **O**

### **Section 4.5 Services Advertised as “Free”**

MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. *(Amended 11/21)* **M**

### **Section 4.6 No Filtering of Listings**

Participants and Subscribers must not filter out or restrict MLS listings that are communicated to consumers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent. *(Adopted 8/24)* **M**

### **Section 5 No Compensation Specified on MLS Listings**

**No Compensation Specified on MLS Listings** Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data or data feeds.

**Note 1:** The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service must not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).

**Note 2:** The multiple listing service shall make no rule on the division of commissions between Participants and nonParticipants. This should remain solely the responsibility of the listing broker.

**Note 3:** Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. *(Amended 8/24)* **M**

### **Section 5.0.0 Required Consumer Disclosure**

Disclosure of Compensation: MLS Participants and Subscribers must:

1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).
2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. *(Adopted 8/24)* **M**

### **Section 5.0.1 Disclosing Potential Short Sales**

**Note:** Select one of the following two options. **M**

**Option #1:** Multiple listing services that permit, but do not require, Participants to disclose potential short sales should adopt the following rule.

Participants may, but are not required to, disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) to other Participants and Subscribers. *(Amended 5/09)*

**Option #2:** Alternatively, multiple listing services that require Participants to disclose potential short sales should adopt the following rule.

Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing Participants. *(Amended 8/24)*

### **Section 5.0.2 Written Buyer Agreement**

Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:

- a. a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.
- b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.
- c. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
- d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable. *(Adopted 8/24)* **M**

### **Section 5.1 Participant as Principal**

If a Participant or any licensee (or licensed or certified appraiser) affiliated with a Participant has any ownership interest in a property, the listing of which is to be disseminated through the multiple listing service, that person shall disclose that interest when the listing is filed with the multiple listing service and such information shall be disseminated to all multiple listing service Participants. **M**

### **Section 5.2 Participant as Purchaser**

If a Participant or any licensee (including licensed and certified appraisers) affiliated with a Participant wishes to acquire an interest in property listed with another Participant, such contemplated interest shall be disclosed, in writing, to the listing broker not later than the time an offer to purchase is submitted to the listing broker. *(Adopted 2/92)* **M**

## **17. SERVICE CHARGES**

### **Section 6 Service Fees and Charges**

The following service charges for operation of the multiple listing service are in effect to defray the costs of the service and are subject to change from time to time in the manner prescribed:

**Initial Participation Fee:** An applicant for participation in the service shall pay an application fee of \$\_\_\_\_\_ with such fee to accompany the application.

**Note:** The initial participation fee shall approximate the cost of bringing the service to the Participant.

**Recurring Participation Fee:** The annual participation fee of each Participant shall be an amount equal to \$\_\_\_\_\_ times each salesperson and licensed or certified appraiser who has access to and use of the service, whether licensed as a broker, sales licensee, or licensed or certified appraiser who is employed by or affiliated as an independent contractor with such Participant. Payment of such fees shall be made on or before the first day of the fiscal year of the multiple listing service. Fees shall be prorated on a monthly basis.

However, MLSs must provide Participants the option of a no-cost waiver of MLS fees, dues, and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS or CIE where the principal broker participates. MLSs may, at their discretion, require that broker Participants sign a certification for nonuse of its MLS services by their licensees, which can include penalties and termination of the waiver if violated.\* *(Amended 5/18 and 8/18)* **M**

**Note 1:** A multiple listing service may elect to have such fees payable on a quarterly or even on a monthly basis. However, added administrative services are necessitated by increased frequency of such payments.

**Note 2:** Multiple listing services that choose to include affiliated unlicensed administrative and clerical staff, personal assistants, and/or individuals seeking licensure or certification as real estate appraisers among those eligible for access to and use of MLS information as Subscribers may, at their discretion, charge recurring fees. *(Amended 11/17)*

**Listing Fee:** A Participant shall pay a monthly listing fee in an amount equal to the number of listings he filed with the service during the previous month, multiplied by the listing fee of \$\_\_\_\_\_ per listing.

**Note:** An alternative provision for the listing fee is: "For filing a new listing or renewal of a listing with the service, a fee of \$\_\_\_\_\_ shall accompany each listing when filed with the service."

*(Amended 8/24)*

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\*Note: Mandatory waiver provision is effective no later than July 1, 2018.

## 18. COMPLIANCE WITH RULES

### Section 7 Compliance with Rules—Authority to Impose Discipline

By becoming and remaining a Participant or Subscriber in this MLS, each Participant and Subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the Participant or Subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. *(Revised 11/14)* **M**

**Note 1:** A Participant (or user/Subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a Participant (or user/Subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. *(Revised 05/14)* **M**

**Note 2:** MLS Participants and Subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by Participants and Subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a Subscriber to the Subscriber's Participant and the Participant is required to attend the hearing of a Subscriber who has received more than three (3) administrative sanctions within a calendar year. *(Adopted 11/20)* **M**

### Section 7.1 Compliance with Rules

The following action may be taken for noncompliance with the rules:

- a. for failure to pay any service charge or fee within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, the service shall be suspended until service charges or fees are paid in full
- b. for failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply

**Note:** Generally, warning, censure, and the imposition of a moderate fine are sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations. *(Amended 11/88)* **R**



## **Section 7.2 Applicability of Rules to Users and/or Subscribers**

Non-principal brokers, sales licensees, appraisers, and others authorized to have access to information published by the MLS are subject to these rules and regulations and may be disciplined for violations thereof provided that the user or Subscriber has signed an agreement acknowledging that access to and use of MLS information is contingent on compliance with the rules and regulations. Further, failure of any user or Subscriber to abide by the rules and/or any sanction imposed for violations thereof can subject the Participant to the same or other discipline. This provision does not eliminate the Participant's ultimate responsibility and accountability for all users or Subscribers affiliated with the Participant. *(Adopted 4/92)*

**Note:** Adoption of Section 7.2 is optional and should be adopted by multiple listing services desiring to establish authority to impose discipline on non-principal users or Subscribers affiliated with MLS members or Participants. *(Adopted 4/92)* **O**

## **19. MEETINGS**

### **Section 8 Meetings of MLS Committee**

The multiple listing service committee shall meet for the transaction of its business at a time and place to be determined by the committee or at the call of the chairperson. **R**

### **Section 8.1 Meetings of MLS Participants**

The committee may call meetings of the Participants in the service to be known as meetings of the multiple listing service. **R**

### **Section 8.2 Conduct of Meetings**

The chairperson or vice chairperson shall preside at all meetings or, in their absence, a temporary chairperson from the membership of the committee shall be named by the chairperson or, upon his failure to do so, by the committee. **R**

## **20. ENFORCEMENT OF RULES OR DISPUTES**

### **Section 9 Consideration of Alleged Violations**

The committee shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a Participant, each Participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors).

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. *(Amended 11/20)* **M**

### **Section 9.1 Violation of Rules and Regulations**

If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged unethical conduct or request for arbitration, it may be administratively considered and determined by the multiple listing service committee, and if a violation is determined, the committee may direct the imposition of sanction, provided the recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS® within twenty (20) days following receipt of the committee's decision. *(Amended 11/96)*

If, rather than conducting an administrative review, the multiple listing committee has a procedure established to conduct hearings, the decision of the multiple listing committee may be appealed to the board of directors of the association of REALTORS® within twenty (20) days of the tribunal's decision being rendered. Alleged violations involving unethical conduct shall be referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS®. *(Amended 2/98)* **M**



**Optional Provision for Establishing Nonmember Participatory Rights (Open MLS)\*** If the alleged offense is a violation of the rules and regulations of the service and does not involve a charge of alleged violation of one or more of the provisions of Section 16 of the rules and regulations or a request for arbitration, it may be administratively considered and determined by the MLS committee and if a violation is determined, the MLS committee may direct the imposition of sanction provided that the recipient of such sanction may request a hearing by the professional standards committee of the association in accordance with the bylaws of the association of REALTORS®. *(Amended 2/98)*

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\*Only adopt this provision if the association's MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere).

If, rather than conducting an administrative review, the MLS committee has a procedure established to conduct hearings, the decision of the hearing tribunal may be appealed to the board of directors of the association of REALTORS®. Alleged violations of Section 16 of the rules and regulations shall be referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association, except that if the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association. *(Amended 2/98)* **M**

## **Section 9.2 Complaints of Unethical Conduct**

All other complaints of unethical conduct shall be referred by the committee to the Professional Standards Administrator of the association of REALTORS® for appropriate action in accordance with the professional standards procedures established in the association's bylaws. *(Amended 11/88)* **M**

## **Section 9.3 Complaints of Unauthorized Use of Listing Content**

Any Participant who believes another Participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No Participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

Upon receiving a notice, the Committee (Board of Directors) will send the notice to the Participant who is accused of unauthorized use. Within ten (10) days from receipt, the Participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the Committee (Board of Directors) that the use is authorized. Any proof submitted will be considered by the Committee (Board of Directors), and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Committee (Board of Directors) determines that the use of the content was unauthorized, the Committee (Board of Directors) may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law. *(Adopted 5/18)* **M**

## **Section 9.4 MLS Rules Violations**

MLS Participants may not take legal action against another Participant for alleged rules violation(s) unless the complaining Participant has first exhausted the remedies provided in these rules. *(Adopted 5/18)* **M**

**Note:** Adoption of Sections 9.3 and 9.4 are not required if the MLS has adopted alternative procedures to address alleged misuse of listing content that includes notice to the alleged infringer.

## **21. CONFIDENTIALITY OF MLS INFORMATION**

### **Section 10 Confidentiality of MLS Information**

Any information provided by the multiple listing service to the Participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of Participants and real estate licensees affiliated with such Participants and those Participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such Participants. *(Amended 4/92)* **M**

### **Section 10.1 MLS Not Responsible for Accuracy of Information**

The information published and disseminated by the service is communicated verbatim, without change by the service, as filed with the service by the Participant. The service does not verify such information provided and disclaims any responsibility for its accuracy. Each Participant agrees to hold the service harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant provides. **R**

## **22. OWNERSHIP OF MLS COMPILATION\* AND COPYRIGHT**

### **Section 11**

By the act of submitting any property listing content to the MLS, the Participant represents and warrants that he or she is fully authorized to license the property listing content as contemplated by and in compliance with this section and these rules and regulations, and also thereby does grant to the MLS license to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to the listed property. *(Amended 5/18)* **M**

Each Participant who submits listing content to the MLS agrees to defend and hold the MLS and every other Participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content. *(Adopted 5/18)* **M**

**Note:** The Digital Millennium Copyright Act (DMCA) is a federal copyright law that enhances the penalties for copyright infringement occurring on the Internet. The law provides exemptions or “safe harbors” from copyright infringement liability for online service providers (OSP) that satisfy certain criteria. Courts construe the definition of “online service provider” broadly, which would likely include MLSs as well as Participants and Subscribers hosting an IDX display.

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\*The term MLS compilation, as used in Sections 11 and 12 herein, shall be construed to include any format in which property listing data is collected and disseminated to the Participants, including but not limited to bound book, loose-leaf binder, computer database, card file, or any other format whatsoever.

One safe harbor limits the liability of an OSP that hosts a system, network or website on which Internet users may post user-generated content. If an OSP complies with the provisions of this DMCA safe harbor, it cannot be liable for copyright infringement if a user posts infringing material on its website. This protects an OSP from incurring significant sums in copyright infringement damages, as statutory damages are as high as \$150,000 per work. For this reason, it is highly recommended that MLSs, Participants and Subscribers comply with the DMCA safe harbor provisions discussed herein.

To qualify for this safe harbor, the OSP must:

1. Designate on its website and register with the Copyright Office an agent to receive takedown requests. The agent could be the MLS, Participant, Subscriber, or other individual or entity.
2. Develop and post a DMCA-compliant website policy that addresses repeat offenders.

3. Comply with the DMCA takedown procedure. If a copyright owner submits a takedown notice to the OSP, which alleges infringement of its copyright at a certain location, then the OSP must promptly remove allegedly infringing material. The alleged infringer may submit a counter-notice that the OSP must share with the copyright owner. If the copyright owner fails to initiate a copyright lawsuit within ten (10) days, then the OSP may restore the removed material.
4. Have no actual knowledge of any complained-of infringing activity.
5. Not be aware of facts or circumstances from which complained-of infringing activity is apparent.
6. Not receive a financial benefit attributable to complained-of infringing activity when the OSP is capable of controlling such activity.

Full compliance with these DMCA safe harbor criteria will mitigate an OSP's copyright infringement liability. For more information see 17 U.S.C. §512. *(Adopted 11/15)* **I**

### **Section 11.1**

All right, title, and interest in each copy of every multiple listing compilation created and copyrighted by the \_\_\_\_\_ Association of REALTORS® and in the copyrights therein, shall at all times remain vested in the \_\_\_\_\_ Association of REALTORS®. **R**

### **Section 11.2 Display**

Each Participant shall be entitled to lease from the \_\_\_\_\_ Association of REALTORS® a number of copies of each MLS compilation sufficient to provide the Participant and each person affiliated as a licensee (including licensed or certified appraisers) with such Participant with one copy of such compilation. The Participant shall pay for each such copy the rental fee set by the association.\*

Participants shall acquire by such lease only the right to use the MLS compilation in accordance with these rules. **M**

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\*This section should not be construed to require the Participant to lease a copy of the MLS compilation for any licensee (or licensed or certified appraiser) affiliated with the Participant who is engaged exclusively in a specialty of the real estate business other than listing, selling, or appraising the types of properties which are required to be filed with the MLS and who does not, at any time, have access to or use of the MLS information or MLS facility of the association.

## **23. USE OF COPYRIGHTED MLS COMPILATION**

### **Section 12 Distribution**

Participants shall, at all times, maintain control over and responsibility for each copy of any MLS compilation leased to them by the association of REALTORS®, and shall not distribute any such copies to persons other than Subscribers who are affiliated with such Participant as licensees, those individuals who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property, and any other Subscribers as authorized pursuant to the governing documents of the MLS. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification, and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed or published by an association multiple listing service where access to such information is prohibited by law. *(Amended 4/92)* **R**

### **Section 12.1 Display**

Participants and those persons affiliated as licensees with such Participants shall be permitted to display the MLS compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing, and able buyers for the properties described in said MLS compilation. **M**

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\*It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus reasonable in number, shall include, but are not limited to, the total number of listings in the MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

## **Section 12.2 Reproduction**

**Option #1:** Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the MLS compilation and distribute to prospective purchasers a reasonable\* number of single copies of property listing data contained in the MLS compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participant or their affiliated licensees, be interested.

Reproductions made in accordance with this rule shall be prepared in such a fashion that the property listing data of properties other than that in which the prospective purchaser has expressed interest, or in which the Participant or the affiliated licensees are seeking to promote interest, does not appear on such reproduction.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to Participants for real estate brokerage purposes must also be available to Participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require Participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. *(Amended 05/14)*

**Option #2:** Participants or their affiliated licensees shall not reproduce any MLS compilation or any portion thereof, except in the following limited circumstances:

Participants or their affiliated licensees may reproduce from the MLS compilation and distribute to prospective purchasers a reasonable\* number of single copies of property listing data contained in the MLS compilation which relate to any properties in which the prospective purchasers are or may, in the judgment of the Participants or their affiliated licensees, be interested.

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\*It is intended that the Participant be permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the Participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus reasonable in number, shall include, but are not limited to, the total number of listings in the MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

Nothing contained herein shall be construed to preclude any Participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the Participant.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the Participant and those licensees affiliated with the Participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

None of the foregoing shall be construed to prevent any individual legitimately in possession of current listing information, sold information, comparables, or statistical information from utilizing such information to support valuations on particular properties for clients and customers. Any MLS content in data feeds available to Participants for real estate brokerage purposes must also be available to Participants for valuation purposes, including automated valuations. MLSs must either permit use of existing data feeds, or create a separate data feed, to satisfy this requirement. MLSs may require execution of a third-party license agreement where deemed appropriate by the MLS. MLSs may require Participants who will use such data feeds to pay the reasonably estimated costs incurred by the MLS in adding or enhancing its downloading capacity for this purpose. Information deemed confidential may not be used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations. *(Amended 05/14)* **M**

## 24. USE OF MLS INFORMATION

### Section 13 Limitations on Use of MLS Information

**Option #1:** Use of information from MLS compilation of current listing information, from the association's statistical report, or from any sold or comparable report of the association or MLS for public mass-media advertising by an MLS Participant or in other public representations, may not be prohibited.

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

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Based on information from the association of REALTORS® (alternatively, from the \_\_\_\_\_ MLS) for the period (date) through (date). *(Amended 11/93)*

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**Option #2:** Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the association or MLS may be used by MLS Participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other Participants, or which were sold by other Participants (as either listing or cooperating broker).

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

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Based on information from the association of REALTORS® (alternatively, from the \_\_\_\_\_ MLS) for the period (date) through (date). *(Amended 11/97)*

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**Note:** Associations are advised to select one rule for the two (2) alternatives above. **M**

## 25. CHANGES IN RULES AND REGULATIONS

### Section 14 Changes in Rules and Regulations

Amendments to the rules and regulations of the service shall be by a \_\_\_\_\_ vote of the members of the multiple listing service committee, subject to approval by the board of directors of the association of REALTORS®.

**Note:** Some associations may prefer to change the rules and regulations by a vote of the Participants, subject to approval by the board of directors of the association of REALTORS®. **M**

## 26. ARBITRATION OF DISPUTES\*

### Section 15 Arbitration of Disputes

By becoming and remaining a Participant, each Participant agrees to arbitrate disputes involving contractual issues and questions, and specific non-contractual issues and questions defined in Standard of Practice 17-4 of the Code of Ethics with MLS Participants in different firms arising out of their relationships as MLS Participants subject to the following qualifications.

- a. If all disputants are members of the same association of REALTORS® or have their principal place of business within the same association's territorial jurisdiction, they shall arbitrate pursuant to the procedures of that association of REALTORS®.
- b. If the disputants are members of different associations of REALTORS® or if their principal place of business is located within the territorial jurisdiction of different associations of REALTORS®, they remain obligated to arbitrate in accordance with the procedures of the \_\_\_\_\_ (state association of REALTORS®). *(Amended 11/97)*



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\*Only adopt Section 15 if the association's MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere). If adopted, this section may not be modified.

**Interboard Arbitration Procedures:** Arbitration shall be conducted in accordance with any existing interboard agreement or, alternatively, in accordance with the interboard arbitration procedures in the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®. Nothing herein shall preclude Participants from agreeing to arbitrate the dispute before a particular association of REALTORS®. *(Amended 11/98)*

**Awards:** The obligation to arbitrate includes the duty to either 1) pay an award to the party(ies) named in the award or 2) deposit the funds with the Professional Standards Administrator or Executive Officer to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or deposit the funds with the association within ten (10) days may be considered a violation of the MLS rules and may subject the Participant to disciplinary action at the sole discretion of the MLS. *(Adopted 11/15)* ○

## Section 16

### 27. STANDARDS OF CONDUCT FOR MLS PARTICIPANTS\*

#### Standard 16.1

MLS Participants shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other MLS Participants have with clients. *(Amended 1/04)* ○

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\*Only adopt the standards of conduct if the association's MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere). Any of the standards of conduct, if adopted, may not be modified.

#### Standard 16.2

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. ○

#### Standard 16.3

Deleted August 2024

#### Standard 16.4

MLS Participants shall not solicit a listing currently listed exclusively with another broker. However, if the listing broker, when asked by the MLS Participant, refuses to disclose the expiration date and nature of such listing (i.e., an exclusive right-to-sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client) the MLS Participant may contact the owner to secure such information and may discuss the terms upon which the MLS Participant might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. ○

#### Standard 16.5

MLS Participants shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by an MLS Participant, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the MLS Participant may contact the buyer/tenant to secure such information and may discuss the terms upon which the MLS Participant might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. *(Amended 1/98)* ○

#### Standard 16.6


MLS Participants shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. *(Amended 11/01)* ○

#### Standard 16.7


The fact that an agreement has been entered into with an MLS Participant shall not preclude or inhibit any other MLS Participant from entering into a similar agreement after the expiration of the prior agreement. *(Amended 1/98)* ○




### **Standard 16.8**

The fact that a prospect has retained an MLS Participant as an exclusive representative or exclusive broker in one or more past transactions does not preclude other MLS Participants from seeking such prospect's future business. *(Amended 1/04)* 

### **Standard 16.9**

MLS Participants are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one Commission except with their informed consent. *(Amended 1/98)* 

### **Standard 16.10**

When MLS Participants are contacted by the client of another MLS Participant regarding the creation of an exclusive relationship to provide the same type of service, and MLS Participants have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. *(Amended 1/98)* 


### **Standard 16.11**

Deleted August 2024


### **Standard 16.12**

MLS Participants are not precluded from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another MLS Participant. A general telephone canvass, general mailing, or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed general for purposes of this rule. *(Amended 1/04)*


The following types of solicitations are prohibited:

Telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another MLS Participant; and mail or other forms of written solicitations of prospects whose properties are exclusively listed with another MLS Participant when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, for sale or for rent signs, or other sources of information intended to foster cooperation with MLS Participants. *(Amended 1/04)* 

### **Standard 16.13**

MLS Participants, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. *(Amended 1/04)* 


### **Standard 16.14**

MLS Participants, acting as buyers or tenants representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. *(Amended 1/04)* 

### **Standard 16.15**

On unlisted property, MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. *(Amended 8/24)*

### **Standard 16.16**

MLS Participants, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable, and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/04)* 

### **Standard 16.17**

MLS Participants are not precluded from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers' exclusive agreements. However, information received through a multiple listing service or any other offer of cooperation may not be used to target clients of other MLS Participants to whom such offers to provide services may be made. *(Amended 1/04)* ❶

### **Standard 16.19**

All dealings concerning property exclusively listed or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client. *(Amended 1/04)*

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, MLS Participants shall ask prospects whether they are a party to any exclusive representation agreement. MLS Participants shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. *(Adopted 1/03, Amended 1/04)* ❶

### **Standard 16.20**

Participants, users, and Subscribers, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude Participants from establishing agreements with their associated licensees governing assignability of exclusive agreements. *(Adopted 1/98, Amended 1/10)* ❶

### **Standard 16.21**

Deleted August 2024

### **Standard 16.22**

MLS Participants shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. *(Amended 01/12)* ❶

### **Standard 16.23**

MLS Participants' firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of licensees affiliated with a Participant's firm shall disclose the firm's name and the licensee's state(s) of licensure in a reasonable and readily apparent manner. *(Adopted 11/07)* ❶

### **Standard 16.24**

MLS Participants shall present a true picture in their advertising and representations to the public, including Internet content, images, and the URLs and domain names they use, and Participants may not:

- a. engage in deceptive or unauthorized framing of real estate brokerage websites;
- b. manipulate (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- c. deceptively use metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic;
- d. present content developed by others without either attribution or without permission; or
- e. otherwise mislead consumers, including use of misleading images. *(Adopted 1/18)* ❶

## Standard 16.25

The services which MLS Participants provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

MLS Participants shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. *(Adopted 11/09)* **O**

## 28. ORIENTATION

### Section 17 Orientation

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval and the operation of the MLS within thirty (30) days after access has been provided. *(Amended 11/04)* **M**

Participants and Subscribers may be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any twelve (12) month period when deemed necessary by the MLS to familiarize Participants and Subscribers with system changes or enhancements and/or changes to MLS rules or policies. Participants and Subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. *(Amended 11/17)*

## 29. INTERNET DATA EXCHANGE (IDX)

### Section 18 IDX Defined

IDX affords MLS Participants the ability to authorize limited electronic display and delivery of their listings by other Participants via the following authorized mediums under the Participant's control: websites, mobile apps, and audio devices. As used throughout these rules, "display" includes "delivery" of such listing. *(Amended 5/17)* **M**

### Section 18.1 Authorization

**Note:** Select one of the following two options. **M**

**Option #1:** Participants' consent for display of their listings by other Participants pursuant to these rules and regulations is presumed unless a Participant affirmatively notifies the MLS that the Participant refuses to permit display (either on a blanket or on a listing-by-listing basis). If a Participant refuses on a blanket basis to permit the display of that Participant's listings, that Participant may not download, frame or display the aggregated MLS data of other Participants.\*

**Option #2:** Participants' consent for display of their listings by other Participants pursuant to these rules and regulations must be established in writing. If a Participant withholds consent on a blanket basis to permit the display of that Participant's listings, that Participant may not download, frame or display the aggregated MLS data of other Participants.\*

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\*Even where Participants have given blanket authority for other Participants to display their listings through IDX, such consent may be withdrawn on a listing-by-listing basis where the seller has prohibited all Internet display or other electronic forms of display or distribution. *(Amended 05/17)*

### Section 18.2 Participation

**Note:** Select one of the following four options. Participation in IDX may be limited to MLS Participants engaged in real estate brokerage by adopting Option #3 or Option #4. **M**

**Option #1:** Participation in IDX is available to all MLS Participants who consent to display of their listings by other Participants.

**Option #2:** Participation in IDX is available to all MLS Participants who are REALTORS® and who consent to display of their listings by other Participants.

**Option #3:** Participation in IDX is available to all MLS Participants engaged in real estate brokerage who consent to display of their listings by other Participants. *(Amended 11/09)*

**Option #4:** Participation in IDX is available to all MLS Participants who are REALTORS® who are engaged in real estate brokerage and who consent to display of their listings by other Participants. *(Amended 11/09)*

### **Section 18.2.1**

Participants must notify the MLS of their intention to display IDX information and must give the MLS direct access for purposes of monitoring/ensuring compliance with applicable rules and policies. *(Amended 05/12)* **M**

### **Section 18.2.2**

MLS Participants may not use IDX-provided listings for any purpose other than display as provided for in these rules. This does not require Participants to prevent indexing of IDX listings by recognized search engines. *(Amended 05/12)* **M**

### **Section 18.2.3**

Listings, including property addresses, can be included in IDX displays except where a seller has directed their listing broker to withhold their listing or the listing's property address from all display on the Internet (including, but not limited to, publicly-accessible websites or VOWs) or other electronic forms of display or distribution. *(Amended 05/17)* **M**

### **Section 18.2.4**

Participants may select the listings they choose to display through IDX based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), or type of listing (e.g., exclusive right-to-sell or exclusive agency). Selection of listings displayed through IDX must be independently made by each Participant. *(Amended 11/21)* **M**

### **Section 18.2.5**

Participants must refresh all MLS downloads and IDX displays automatically fed by those downloads at least once every twelve (12) hours. *(Amended 11/14)* **M**

### **Section 18.2.6**

Except as provided in the IDX policy and these rules, an IDX site or a Participant or user operating an IDX site or displaying IDX information as otherwise permitted may not distribute, provide, or make any portion of the MLS database available to any person or entity. *(Amended 05/12)* **M**

### **Section 18.2.7**

Any IDX display controlled by a Participant must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface. For purposes of the IDX policy and these rules, "control" means the ability to add, delete, modify and update information as required by the IDX policy and MLS rules. *(Amended 05/12)* **M**

### **Section 18.2.8**

Any IDX display controlled by a Participant or Subscriber that

- a. allows third-parties to write comments or reviews about particular listings or displays a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
- b. displays an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing, either or both of those features shall be disabled or discontinued for the seller's listings at the request of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all displays controlled by Participants. Except for the foregoing and subject to Section 18.2.9, a Participant's IDX display may communicate the Participant's professional judgment concerning any listing. Nothing shall prevent an IDX display from notifying its customers that a particular feature has been disabled at the request of the seller. *(Adopted 05/12)* **M**

### **Section 18.2.9**

Participants shall maintain a means (e.g., e-mail address, telephone number) to receive comments about the accuracy of any data or information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property. Participants shall correct or remove any false data or information relating to a specific property upon receipt of a communication from the listing broker or listing agent for the property explaining why the data or information is false. However, Participants shall not be obligated to remove or correct any data or information that simply reflects good faith opinion, advice, or professional judgment. *(Amended 05/12)* **M**

### **Section 18.2.10**

An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSS. As used in this policy, “co-mingling” means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSS on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. *(Adopted 11/14)* **M**

### **Section 18.2.11**

Participants shall not modify or manipulate information relating to other Participants listings. MLS Participants may augment their IDX display of MLS data with applicable property information from other sources to appear on the same webpage or display, clearly separated by the data supplied by the MLS. The source(s) of the information must be clearly identified in the immediate proximity to such data. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized fields. *(Adopted 05/15)* **M**

### **Section 18.2.12**

All listings displayed pursuant to IDX shall identify the listing firm, and the email or phone number provided by the listing Participant in a reasonably prominent location and in a readily visible color and typeface not smaller than the median used in the display of listing data.\* *(Amended 11/21)* **M**

## **Section 18.3 Display**

Display of listing information pursuant to IDX is subject to the following rules:

**Note:** All of the following rules are optional but, if adopted, cannot be modified. Select those rules which apply to your IDX program and number the sections accordingly.

### **Section 18.3.1**

Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS Participants and users (e.g., showing instructions, and property security information) may not be displayed. *(Amended 11/21)* **O**

#### **Section 18.3.1.1**

The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed. *(Amended 05/12)* **O**

### **Section 18.3.2**

Deleted May 2015.

### **Section 18.3.3**

Deleted May 2017; moved to 18.2.12 May 2017.

### **Section 18.3.4**

All listings displayed pursuant to IDX shall identify the listing agent. **O**

### **Section 18.3.5**

Non-principal brokers and sales licensees affiliated with IDX Participants may display information available through IDX on their own websites subject to their Participant's consent and control and the requirements of state law and/or regulation.

○

### **Section 18.3.6**

Deleted November 2006.

### **Section 18.3.7**

All listings displayed pursuant to IDX shall show the MLS as the source of the information.\* *(Amended 05/17)* ○

### **Section 18.3.8**

Participants (and their affiliated licensees, if applicable) shall indicate on their websites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that the data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect Participants and/or the MLS from liability.\* *(Amended 05/17)* ○

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\*Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. *(Amended 5/17)*

### **Section 18.3.9**

The data consumers can retrieve or download in response to an inquiry shall be determined by the MLS but in no instance shall be limited to fewer than five hundred (500) listings or fifty percent (50%) of the listings available for IDX display, whichever is fewer. *(Amended 11/17)* ○

### **Section 18.3.10**

The right to display other Participants' listings pursuant to IDX shall be limited to a Participant's office(s) holding participatory rights in this MLS. ○

### **Section 18.3.11**

Listings obtained through IDX feeds from REALTOR® Association MLSs where the MLS Participant holds participatory rights must be displayed separately from listings obtained from other sources. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.\* *(Amended 05/17)* ○

**Note:** An MLS Participant (or where permitted locally, an MLS Subscriber) may co-mingle the listings of other brokers received in an IDX feed with listings available from other MLS IDX feeds, provided all such displays are consistent with the IDX rules, and the MLS Participant (or MLS Subscriber) holds participatory rights in those MLSs. As used in this policy, "co-mingling" means that consumers are able to execute a single property search of multiple IDX data feeds resulting in the display of IDX information from each of the MLSs on a single search results page; and that Participants may display listings from each IDX feed on a single webpage or display. *(Adopted 11/14)*

### **Section 18.3.12**

Display of expired, and withdrawn listings is prohibited. *(Amended 5/21)* ○

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\*Displays of minimal information (e.g., "thumbnails", text messages, "tweets", etc., of two hundred [200] characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. For audio delivery of listing content, all required disclosures must be subsequently delivered electronically to the registered consumer performing the property search or linked to through the device's application. *(Amended 05/17)*

### **Section 18.3.13**

Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and e-mail address(es) is prohibited. ○



**Note:** The following Sections 18.3.14 and 18.3.15 may be adopted by MLSs that provide Participants with a “persistent” download (i.e., where the MLS database resides on Participants’ servers) of the MLS database.

#### **Section 18.3.14**

Participants are required to employ appropriate security protection such as firewalls on their websites and displays, provided that any security measures required may not be greater than those employed by the MLS. *(Amended 05/12)* **○**

#### **Section 18.3.15**

Participants must maintain an audit trail of consumer activity on their website and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers. *(Amended 05/12)* **○**

#### **Section 18.3.16**

**Note:** Select one of the following two options.

**Option #1:** Advertising (including co-branding) on pages displaying IDX-provided listings is prohibited.

**Option #2:** Deceptive or misleading advertising (including co-branding) on pages displaying IDX-provided listings is prohibited. For purposes of these rules, co-branding will be presumed not to be deceptive or misleading if the Participant’s logo and contact information is larger than that of any third party. *(Adopted 11/09)* **○**

#### **Section 18.4 Service Fees and Charges**

Service fees and charges for participation in IDX shall be as established annually by the Board of Directors. *(Adopted 11/01, Amended 5/05)* **○**



## Section 19

### 30. VIRTUAL OFFICE WEBSITES (VOWS)

**Note:** Adoption of Sections 19.1 through 19.14 is mandatory.

#### Section 19.1 VOW Defined

- a. A “Virtual Office Website” (VOW) is a Participant’s Internet website, or a feature of a Participant’s website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS listing information, subject to the Participant’s oversight, supervision, and accountability. A non-principal broker or sales licensee affiliated with a Participant may, with his or her Participant’s consent, operate a VOW. Any VOW of a non-principal broker or sales licensee is subject to the Participant’s oversight, supervision, and accountability. **M**
- b. As used in Section 19 of these rules, the term “Participant” includes a Participant’s affiliated non-principal brokers and sales licensees—except when the term is used in the phrases “Participant’s consent” and “Participant’s oversight, supervision, and accountability”. References to “VOW” and “VOWs” include all Virtual Office Websites, whether operated by a Participant, by a non-principal broker or sales licensee, or by an “Affiliated VOW Partner” (AVP) on behalf of a Participant. **M**
- c. “Affiliated VOW Partner” (AVP) refers to an entity or person designated by a Participant to operate a VOW on behalf of the Participant, subject to the Participant’s supervision, accountability, and compliance with the VOW policy. No AVP has independent participation rights in the MLS by virtue of its right to receive information on behalf of a Participant. No AVP has the right to use MLS listing information, except in connection with operation of a VOW on behalf of one or more Participants. Access by an AVP to MLS listing information is derivative of the rights of the Participant on whose behalf the AVP operates a VOW. **M**
- d. As used in Section 19 of these rules, the term “MLS listing information” refers to active listing information and sold data provided by Participants to the MLS and aggregated and distributed by the MLS to Participants. **M**

#### Section 19.2

- a. The right of a Participant’s VOW to display MLS listing information is limited to that supplied by the MLS(s) in which the Participant has participatory rights. However, a Participant with offices participating in different MLSs may operate a master website with links to the VOWs of the other offices. **M**
- b. Subject to the provisions of the VOW policy and these rules, a Participant’s VOW, including any VOW operated on behalf of a Participant by an AVP, may provide other features, information, or functions, e.g., “Internet Data Exchange” (IDX). **M**
- c. Except as otherwise provided in the VOW policy or in these rules, a Participant need not obtain separate permission from other MLS Participants whose listings will be displayed on the Participant’s VOW. **M**

#### Section 19.3

- a. Before permitting any consumer to search for or retrieve any MLS listing information on his or her VOW, the Participant must take each of the following steps.
- i. The Participant must first establish with that consumer a lawful broker-consumer relationship (as defined by state law), including completion of all actions required by state law in connection with providing real estate brokerage services to clients and customers (hereinafter, “Registrants”). Such actions shall include, but are not limited to, satisfying all applicable agency, non-agency, and other disclosure obligations, and execution of any required agreements.

- ii. The Participant must obtain the name of and a valid e-mail address for each Registrant. The Participant must send an e-mail to the address provided by the Registrant confirming that the Registrant has agreed to the terms of use (described in Subsection d., below). The Participant must verify that the e-mail address provided by the Registrant is valid and that the Registrant has agreed to the terms of use.
  - iii. The Participant must require each Registrant to have a user name and a password, the combination of which is different from those of all other Registrants on the VOW. The Participant may, at his or her option, supply the user name and password or may allow the Registrant to establish its user name and password. The Participant must also assure that any e-mail address is associated with only one user name and password. **M**
- b. The Participant must assure that each Registrant's password expires on a date certain, but may provide for renewal of the password. The Participant must at all times maintain a record of the name, e-mail address, user name, and current password of each Registrant. The Participant must keep such records for not less than one hundred eighty (180) days after the expiration of the validity of the Registrant's password. **M**
  - c. If the MLS has reason to believe that a Participant's VOW has caused or permitted a breach in the security of MLS listing information or a violation of MLS rules, the Participant shall, upon request of the MLS, provide the name, e-mail address, user name, and current password, of any Registrant suspected of involvement in the breach or violation. The Participant shall also, if requested by the MLS, provide an audit trail of activity by any such Registrant. **M**
  - d. The Participant shall require each Registrant to review and affirmatively to express agreement (by mouse click or otherwise) to a terms of use provision that provides at least the following:
    - i. that the Registrant acknowledges entering into a lawful consumer-broker relationship with the Participant
    - ii. that all information obtained by the Registrant from the VOW is intended only for the Registrant's personal, non-commercial use
    - iii. that the Registrant has a bona fide interest in the purchase, sale, or lease of real estate of the type being offered through the VOW
    - iv. that the Registrant will not copy, redistribute, or retransmit any of the information provided, except in connection with the Registrant's consideration of the purchase or sale of an individual property
    - v. that the Registrant acknowledges the MLS' ownership of and the validity of the MLS' copyright in the MLS database **M**
  - e. The terms of use agreement may not impose a financial obligation on the Registrant or create any representation agreement between the Registrant and the Participant. Any agreement entered into at any time between the Participant and Registrant imposing a financial obligation on the Registrant or creating representation of the Registrant by the Participant must be established separately from the terms of use, must be prominently labeled as such, and may not be accepted solely by mouse click. **M**
  - f. The terms of use agreement shall also expressly authorize the MLS and other MLS Participants or their duly authorized representatives to access the VOW for the purposes of verifying compliance with MLS rules and monitoring display of Participants' listings by the VOW. The agreement may also include such other provisions as may be agreed to between the Participant and the Registrant. **M**

#### **Section 19.4**

A Participant's VOW must prominently display an e-mail address, telephone number, or specific identification of another mode of communication (e.g., live chat) by which a consumer can contact the Participant to ask questions or get more information about any property displayed on the VOW. The Participant or a non-principal broker or sales licensee licensed with the Participant must be willing and able to respond knowledgeably to inquiries from Registrants about properties within the market area served by that Participant and displayed on the VOW. **M**

## Section 19.5

A Participant's VOW must employ reasonable efforts to monitor for and prevent misappropriation, scraping, and other unauthorized uses of MLS listing information. A Participant's VOW shall utilize appropriate security protection such as firewalls as long as this requirement does not impose security obligations greater than those employed concurrently by the MLS. **M**

**Note:** MLSs may adopt rules requiring Participants to employ specific security measures, provided that any security measure required does not impose obligations greater than those employed by the MLS.

## Section 19.6

- a. A Participant's VOW shall not display the listings or property addresses of any seller who has affirmatively directed the listing broker to withhold the seller's listing or property address from display on the Internet. The listing broker shall communicate to the MLS that the seller has elected not to permit display of the listing or property address on the Internet. Notwithstanding the foregoing, a Participant who operates a VOW may provide to consumers via other delivery mechanisms, such as e-mail, fax, or otherwise, the listings of sellers who have determined not to have the listing for their property displayed on the Internet. **M**
- b. A Participant who lists a property for a seller who has elected not to have the property listing or the property address displayed on the Internet shall cause the seller to execute a document that includes the following (or a substantially similar) provision. **M**

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## Seller Opt-out Form

1. Check one.
  - a. ☐ I have advised my broker or sales agent that I do not want the listed property to be displayed on the Internet.
  - b. ☐ I have advised my broker or sales agent that I do not want the address of the listed property to be displayed on the Internet.
2. I understand and acknowledge that if I have selected Option a., consumers who conduct searches for listings on the Internet will not see information about the listed property in response to their searches.

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Initials of Seller

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- c. The Participant shall retain such forms for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market, whichever is greater. **M**

## Section 19.7

- a. Subject to Subsection b., below, a Participant's VOW may allow third-parties:
  - i. to write comments or reviews about particular listings or display a hyperlink to such comments or reviews in immediate conjunction with particular listings, or
  - ii. to display an automated estimate of the market value of the listing (or hyperlink to such estimate) in immediate conjunction with the listing. **M**
- b. Notwithstanding the foregoing, at the request of a seller, the Participant shall disable or discontinue either or both of those features described in Subsection a. as to any listing of the seller. The listing broker or agent shall communicate to the MLS that the seller has elected to have one or both of these features disabled or discontinued on all Participants' websites. Subject to the foregoing and to Section 19.8, a Participant's VOW may communicate the Participant's professional judgment concerning any listing. A Participant's VOW may notify its customers that a particular feature has been disabled at the request of the seller. **M**

### **Section 19.8**

A Participant's VOW shall maintain a means (e.g., e-mail address, telephone number) to receive comments from the listing broker about the accuracy of any information that is added by or on behalf of the Participant beyond that supplied by the MLS and that relates to a specific property displayed on the VOW. The Participant shall correct or remove any false information relating to a specific property within forty-eight (48) hours following receipt of a communication from the listing broker explaining why the data or information is false. The Participant shall not, however, be obligated to correct or remove any data or information that simply reflects good faith opinion, advice, or professional judgment. **M**

### **Section 19.9**

A Participant shall cause the MLS listing information available on its VOW to be refreshed at least once every three (3) days. **M**

### **Section 19.10**

Except as provided in these rules, in the NATIONAL ASSOCIATION OF REALTORS®' VOW policy, or in any other applicable MLS rules or policies, no Participant shall distribute, provide, or make accessible any portion of the MLS listing information to any person or entity. **M**

### **Section 19.11**

A Participant's VOW must display the Participant's privacy policy informing Registrants of all of the ways in which information that they provide may be used. **M**

### **Section 19.12**

A Participant's VOW may exclude listings from display based only on objective criteria, including, but not limited to, factors such as geography, list price, or type of property. *(Amended 11/21)* **M**

### **Section 19.13**

A Participant who intends to operate a VOW to display MLS listing information must notify the MLS of its intention to establish a VOW and must make the VOW readily accessible to the MLS and to all MLS Participants for purposes of verifying compliance with these rules, the VOW policy, and any other applicable MLS rules or policies. **M**

### **Section 19.14**

A Participant may operate more than one VOW himself or herself or through an AVP. A Participant who operates his or her own VOW may contract with an AVP to have the AVP operate other VOWs on his or her behalf. However, any VOW operated on behalf of a Participant by an AVP is subject to the supervision and accountability of the Participant. **M**

**Note:** Adoption of Sections 19.15 through 19.19 is at the discretion of the MLS. However, if any of the following sections are adopted, an equivalent requirement must be imposed on Participants' use of MLS listing information in providing brokerage service through all other delivery mechanisms.

### **Section 19.15**

A Participant's VOW may not make available for search by or display to Registrants any of the following information:

- a. expired and withdrawn listings

**Note:** Due to the 2015 changes in IDX policy and the requirement that Participants be permitted to make MLS listing information available to Registrants of VOW sites where such information may be made available via other delivery mechanisms, MLSs can no longer prohibit the display of pending ("under contract") listings on VOW sites.

- b. the type of listing agreement, i.e., exclusive right-to-sell or exclusive agency
- c. the seller's and occupant's name(s), phone number(s), or e-mail address(es)
- d. instructions or remarks intended for cooperating brokers only, such as those regarding showings or security of listed property
- e. Sales price if sold information is not publicly accessible in the jurisdiction of the MLS *(Amended 11/21)* **O**

**Note:** If sold information is publicly accessible in the jurisdiction of the MLS, Subsection 19.15e. must be omitted. *(Revised 11/21)* **M**

### **Section 19.16**

A Participant shall not change the content of any MLS listing information that is displayed on a VOW from the content as it is provided in the MLS. The Participant may, however, augment MLS listing information with additional information not otherwise prohibited by these rules or by other applicable MLS rules or policies, as long as the source of such other information is clearly identified. This rule does not restrict the format of display of MLS listing information on VOWs or the display on VOWs of fewer than all of the listings or fewer than all of the authorized information fields. **O**

### **Section 19.17**

A Participant shall cause to be placed on his or her VOW a notice indicating that the MLS listing information displayed on the VOW is deemed reliable, but is not guaranteed accurate by the MLS. A Participant's VOW may include other appropriate disclaimers necessary to protect the Participant and/or the MLS from liability. **O**

### **Section 19.18**

A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm, the listing broker or agent, and the email or phone number provided by the listing Participant in a readily visible color, in a reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data. *(Amended 11/21)* **O**

### **Section 19.19**

A Participant shall limit the number of listings that a Registrant may view, retrieve, or download to not more than \_\_\_\_ current listings and not more than \_\_\_\_ sold listings in response to any inquiry. **O**

**Note:** The number of listings that may be viewed, retrieved, or downloaded should be specified by the MLS in the context of this rule, but may not be fewer than five hundred (500) listings or fifty percent (50%) of the listings in the MLS, whichever is less. *(Amended 11/17)* **M**

**Note:** Adoption of Sections 19.20 through 19.25 is at the discretion of the MLS. It is not required that equivalent requirements be established related to other delivery mechanisms.

### **Section 19.20**

A Participant shall require that Registrants' passwords be reconfirmed or changed every \_\_\_\_ days. **O**

**Note:** The number of days passwords remain valid before being changed or reconfirmed must be specified by the MLS in the context of this rule and cannot be shorter than ninety (90) days. Participants may, at their option, require Registrants to reconfirm or change passwords more frequently. **M**

### **Section 19.21**

A Participant may display advertising and the identification of other entities ("co-branding") on any VOW the Participant operates or that is operated on his or her behalf. However, a Participant may not display on any such VOW deceptive or misleading advertising or co-branding. For purposes of this section, co-branding will be presumed not to be deceptive or misleading if the Participant's logo and contact information (or that of at least one Participant, in the case of a VOW established and operated on behalf of more than one Participant) is displayed in immediate conjunction with that of every other party, and the logo and contact information of all Participants displayed on the VOW is as large as the logo of the AVP and larger than that of any third party. **O**

### **Section 19.22**

A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to identify the source of the listing. **O**

### **Section 19.23**

A Participant shall cause any listing displayed on his or her VOW obtained from other sources, including from another MLS or from a broker not participating in the MLS, to be searched separately from listings in the MLS. **O**

**Section 19.24**

Participants and the AVPs operating VOWs on their behalf must execute the license agreement required by the MLS. **O**

**Section 19.25**

Where a seller affirmatively directs his or her listing broker to withhold either the seller's listing or the address of the seller's listing from display on the Internet, a copy of the seller's affirmative direction shall be provided to the MLS within forty-eight (48) hours. **O**

# Part Four: Appendices



# Appendix 1

## Section 1 History and Background

Multiple listing, in one form or another, dates back into the nineteenth century. The first boards of REALTORS® were established as real estate exchanges. On certain appointed days, the members of a board of REALTORS® gathered at the board offices and exchanged information about their listings. They, in effect, carried on an auction, as they frequently came prepared to purchase certain property desired by their principals but listed by another broker. This practice was common in the 1880s and 1890s. Shortly after the end of the nineteenth century the term multiple listing came into use. It is mentioned as an activity of boards of REALTORS® as early as 1907.

By the 1920s, multiple listing had become widely accepted. The expansion of this function continued through succeeding years and spread throughout the country with the result that today hundreds of local associations of REALTORS® provide multiple listing services, in one form or another, to their members. I

## Section 2 National Association's Interest

The interest of the National Association in multiple listing is in assuring the proper operation of such an activity so that it furthers the objectives of the Code of Ethics, encourages cooperation between REALTORS®, and avoids practices which may be contrary to public policy or the law.

The recommendations of the National Association are in support of the following principles:

1. An association of REALTORS® should be representative of those engaged in the real estate business in the area which it serves. As a trade association, it should open its activities to all qualified persons and invite them to join in voluntary association for the good of the public.
2. Eligibility for association of REALTORS® membership should not require participation in a multiple listing activity if, in the opinion of the individual, such activity does not lend itself to his particular method of doing business.
3. Participation in any activity should be subject to rules that do not conflict with the public interest.
4. The association of REALTORS® should maintain its position as an organization serving a public interest and sustain its tax-exempt status.
5. Activities and services offered to REALTORS® should be under the direct supervision of the association of REALTORS® subject to the governing body of the association of REALTORS® and should not be conducted by a separate or independent group. In an instance where, in order to preserve the tax-exempt status of the association, it is necessary to organize the multiple listing service as a separate, for profit corporation, such corporation should be wholly owned by the association of REALTORS® and as such is ultimately accountable to the association of REALTORS®.

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## Section 3 Reasons for Association Ownership

An association of REALTORS® exists to provide the real estate services desired and needed by members to assist them in serving the real estate needs and interests of their clients, their customers, and the community.

The association is dedicated to the promotion of continuing real estate education and to the establishment and enforcement of high standards of professional conduct in all real estate transactions. As association members, REALTOR® and REALTOR-ASSOCIATE®s are committed to the strict Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® which obligates REALTORS® to cooperate in real estate transactions whenever it is in the interest of their clients.

The concept of cooperation in real estate transactions can be enhanced by a mechanism such as the multiple listing service which enables a REALTOR® to cooperate with other REALTORS®. . Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interest of their clients. I

The MLS should be an association service or function for the following reasons:

The association exists. This means the service can be established less expensively and more quickly and should result in a fuller utilization of the association's personnel and equipment.

Every MLS, whether or not association affiliated, requires certain functions to be performed, including management, rule making and enforcement, and arbitration of disputes. Associations of REALTORS® have the existing organization and capacity to fulfill all these functions, and by doing so, are able to minimize the cost and improve the quality of the performance. *(Revised 11/96)*

Since REALTORS® are bound to a Code of Ethics and other obligations of association membership, it is desirable that such obligations be consistent with the obligations imposed by the MLS. This can only be assured if the MLS is subject to the control of the association, since the association cannot legally control an independent organization. Association control is especially important to avoid situations where the association is held responsible, at least in the minds of the public, for the conduct of an MLS not under its control simply because REALTORS® are members of such an MLS.

REALTORS® have worked hard to establish a reputation for integrity and professionalism; and they carry that image with them in all their transactions. If their cooperative transactions are through an association MLS, the association can better assure compliance with the applicable legal obligations and better defend the legitimate and essential rights of REALTORS® to do business.

In sum, a multiple listing service is just one of many services offered by an association of REALTORS®, but it is a useful and beneficial service to the members, their clients and customers, and the community. The association MLS offers efficiency, effectiveness, and economy of operation. It avoids duplication of effort and of cost. The community looks to the association for leadership in matters affecting real estate and hence would expect a multiple listing service to be operated by the association of REALTORS®. The association has the respect and confidence of the community it serves. Association members are committed to the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS® and to its enforcement, including disciplinary proceedings and arbitration proceedings to resolve real estate complaints and disputes consistent with state law. The association MLS promotes harmony and cooperation among association members and remains, in proper perspective, an association service. **I**

#### **Section 4 How to Organize a Multiple Listing Service**

If a substantial number of members show an interest in the subject of multiple listing, it is prudent for the association of REALTORS® to show leadership by appointing a committee to investigate. It can be a mistake for the association of REALTORS® to ignore interest on the part of even a limited number of members, lest they undertake to establish a service outside the association.

The committee should sponsor a full discussion of the subject at one or several membership meetings. Members from nearby associations of REALTORS® with multiple listing activities should be invited to give their view and answer questions. However, their answers should be verified in terms of this Handbook and the policies of the National Association.

The committee should make on-site visits to various associations with multiple listing activities to learn what costs are involved and to decide on the equipment needed. Many associations find it desirable to contract all or most processing. Others do a complete processing job themselves.

If processing is done outside the association, the initial equipment needed is minor and there should be no need for a large initial participation fee.

If the association does the complete processing, it will be necessary to purchase duplicating and photographic equipment. The initial cost of starting the operation may be higher, but long-term costs and control advantages may be greater.

After the committee has made a thorough investigation of all factors involved, it should make its report and recommendations to a membership meeting. If the report favors adoption of the activity, the association should amend the bylaws to authorize the operation of the activity and to set up the machinery for operation. (See bylaw provisions located elsewhere in this Handbook.)

The name of association owned or operated multiple listing services (including multi- association and regional multiples) should rationally relate to the area served. (See Part Two, C., Operational Issues, Section 7, Challenges to the Names of Multiple Listing Services, for more information.)

The committee authorized to be created by the amended bylaws then should adopt supplemental rules and regulations which will outline the operating procedures of the activity. The rules and regulations, as adopted, should be submitted to the board of directors. A copy should be provided to the state association for its records and a copy should be forwarded to Board Policy and Programs, National Association, so that the rules and regulations can be reviewed to determine their compliance with applicable policy. (See the National Association's MLS Antitrust Compliance Policy, located in Part Two of this Handbook.) *(Amended 8/24)* **R**

## Appendix 2

### **Merging an Independent MLS with an Association of REALTORS®**

Why should a multiple listing service which functions efficiently, yet is neither owned nor operated by an association of REALTORS®, seek association affiliation This question is one which is posed repeatedly to the National Association and one for which there is no simplistic answer. However, among the considerations which have prompted such affiliation in the past are the following:

1. The unification strengthens the position of the association in the community and contributes to harmony among REALTORS® since all are in the "same house" working together.
2. Associations are most knowledgeable on a continuing basis as to policy of the National Association (Code of Ethics, official interpretations of bylaws, MLS Antitrust Compliance Policy). In this regard, an association MLS can have its governing documents reviewed by the National Association and can obtain policy guidance as to proposed amendments. Thus, they benefit from the National Association's experience on a nationwide basis as to actions brought against multiple listing services, the interest of the Justice Department, provisions of consent decrees and, in general, evaluation on a continuing basis. This service is not provided to multiple listing services which are not owned and operated by associations of REALTORS®.
3. The association MLS can deal with MLS rule violations, or if deemed desirable, may refer violations to the professional standards committee of the association and must refer all allegations of unethical conduct to the association's professional standards committee and must refer all arbitration cases to an arbitration panel of the professional standards committee. An outside MLS must duplicate these facilities only at considerable additional cost, and in no event can enforce the Code of Ethics of the National Association to which it does not and cannot subscribe.
4. If litigation arises against an MLS under association auspices, the protection of the errors and omissions insurance provided by the National Association is available. The association MLS also may have, under appropriate circumstances, access to the legal action fund of the National Association as a back-up to the errors and omissions insurance.
5. The association MLS offers the economy of the same facilities and same staff as utilized by the association.
6. In an association MLS there is no vested interest in any one or limited group of Participants. The common interest without vested individual interest is an assurance to all who participate and contributes to harmony and best operation.
7. The association MLS leaves no doubt that the service is a service and not merely a business enterprise. Policy of the National Association precludes an association-owned- and-operated MLS from functioning as an agent.

Once the numerous benefits of association affiliation are recognized and accepted, the next step is the merger itself. The National Association cannot specifically advise as to the procedural steps of combining a multiple listing service with an association without first reviewing the bylaws and constitution of the existing multiple listing service as well as the details of its financial operation. Review of such an outside multiple's governing documents may be accomplished only after a specific request by the association president or executive officer when consideration is being given to a merger. Generally, the suggested procedure for merging an MLS operation into a service of an association of REALTORS® is somewhat as follows:

1. The association should appoint a committee to study MLS as a service of the association and work jointly with the committee from the multiple listing service.
2. The multiple listing committee should appoint a group to study the methods of dissolving the independent operation and to work with the committee of the association. One way this can be done is to transfer the equipment which is owned by the multiple listing service and needed to operate the service to the association. In return, the association can agree to admit, without payment of initiation fee, all of the shareholders of the multiple listing service (provided they are REALTOR® principals) and the remaining assets of the service can be paid to the shareholders or transferred to the association on the same basis as the furniture and equipment. In any event, when all of the assets of the multiple listing service are either transferred to the shareholders or to the association, then the multiple listing service would cause itself to be dissolved.
3. After due study, the recommendations of the joint committee should be made to the two respective groups.
4. When the recommendations favor a merger, the board of directors of both groups should take appropriate action to secure membership approval for the merger.
5. Where appropriate, the membership of the association of REALTORS® should adopt the association bylaw amendment suggested in the Handbook, authorizing the service and a method of supervision.
6. A committee should be appointed to study rules and regulations for operating the service. The verbatim adoption of the model rules and regulations in the Handbook will bring automatic compliance with the policy of the National Association.
7. The proposed rules and regulations should be referred to the board of directors of the association of REALTORS® for approval.
8. When approved as described in the preceding paragraph, the service may begin operation as a service of the association. However, to obtain the coverage of the errors and omissions insurance program of the National Association with respect to the operation of the MLS, it is necessary that the National Association review the rules and regulations adopted by the service for compliance with the multiple listing policy of the National Association. It is important that this step be taken promptly following adoption of the MLS rules and regulations. (If desired by the association, the proposed rules and regulations may be forwarded to the National Association for review and critique prior to adoption by the board of directors of the local association.)
9. An attorney should be retained to effect the dissolution of the outside service, and under counsel's direction, the assets, tangible and intangible, should be dispersed in accordance with the merger agreement.

Inquiries regarding the merger procedure should be directed to Board Policy and Programs, NATIONAL ASSOCIATION OF REALTORS®. (*Amended 8/24*) **I**

## Appendix 3

### Protecting the Tax-exempt Status of the Association of REALTORS®

Section 501(c)(6) of the Internal Revenue code provides for the exemption of nonprofit real estate associations whose earnings do not inure to the benefit of any private shareholders or individuals. Pursuant to Section 1.501(c)(6)-1 of the income tax regulations, a real estate association will not be entitled to an exemption unless it:

. . . is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. . . . Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular service for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self sustaining, is not a business league.

It should be noted that this regulation does not preclude a real estate association from engaging in a regular business of a kind ordinarily carried on for profit, as long as such business does not constitute the primary purpose for the organization's existence. In fact, the regulation strongly suggests that a real estate association could engage in some business activities without loss of exemption by providing that organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income.

Thus, the purpose of this discussion is to consider whether real estate associations operating multiple listing services can qualify for a Section 501(c)(6) exemption.

This inquiry involves two separable questions:

1. Is the operation of an MLS ordinarily a not-for-profit activity?
2. Will the operation of a profitable MLS cause the real estate association to forfeit its Section 501(c)(6) exemption?

The position of the Internal Revenue Service with respect to the first of these questions is clear. Revenue Ruling 59-234, 1959-2 C.B. 149 holds that an MLS is a business ordinarily carried on for profit and inherently designed to render particular services to individual members. The service reached this conclusion notwithstanding that the purpose of an MLS, generally, in the service's own words, is:

(a) to assist members of the board in rendering better service to the public by creating a broader and more active market for real estate; (b) to stimulate and facilitate the transaction of business between members of the board through cooperation and exchange of exclusive listings; (c) to provide a medium through which real estate may be merchandised more efficiently and expeditiously to the advantage of both buyer and seller; and (d) to encourage REALTORS® to uphold high standards of business practice and to further educate them in adhering to the principles of the REALTORS® Code of Ethics.

The Court of Claims, in *Evanston-North Shore Board of REALTORS® v. U.S.*, 162 Ct. Cl. 682, 320 F.2d 375 (1963), cert. den. 376 U.S. 931 (1964), followed Rev. Rule. 59-234 in denying exempt status to a real estate association with a mandatory multiple listing service. While the court specifically found that Evanston-North Shore's MLS was operated primarily for the benefit of its members, there is dictum which suggests that a real estate association might escape the application of Rev. Rule. 59-234, given the right circumstances.

Assuming that a multiple listing service is a business ordinarily carried on for profit, it does not follow that the operation of an MLS should cause a real estate association to forfeit its Section 501(c)(6) exemption. Arguably, the operation of an MLS qualifies as a business activity ancillary to the primary purpose of a real estate association which, as required by Reg. Section 1.501(c)(6)-1, is “. . . to promote (a) common interest and . . . (improve) business conditions . . . distinguished from the performance of particular services for individual persons,” rather than constituting the primary purpose for the association's existence. Thus, if the primary purpose of a real estate association is to improve business conditions as opposed to operating an MLS, the association should be eligible for a Section 501(c)(6) exemption.



The basic problem facing a real estate association operating an MLS is demonstrating that the primary purpose for its existence is to conduct activities dedicated to the improvement of local business conditions (within the meaning of Reg. Section 1.501(c)(6)-1) and that any other financial activities, including the MLS, are ancillary to such purpose.

A summary of specific methods and procedures that should be followed and adequately documented by the association to demonstrate entitlement to tax exemption is presented as follows:

1. **Association to Document Its Overall Program of Activity:** The leadership of the association should ensure that the objects of the association, as set forth in the bylaws, establish a clear and articulate picture of what the association is and what the purposes and objectives of the association are considered to be. In addition to the description found in the bylaws of the association, the leadership should ensure that it documents, in some further form, any and all participation by association members in the programs, activities, and projects of the local association, as well as those of the state association and of the National Association.
2. **Multiple Listing Service to Be Operated as Incidental Activity of the Association:** The leadership of the association should ensure that it is clearly understood by all of the association members, and particularly by those who participate in the multiple listing service, that the multiple listing service is owned and operated by the association as just one of the many activities of the association and is of an incidental nature rather than being of a predominant nature as an activity of the association.

The articles of the bylaws of the association of REALTORS® should clearly delineate the multiple listing service as being a service of the association, should describe whether it will be operated as a committee of the association or as a wholly-owned subsidiary corporation with all of the stock owned by the association of REALTORS®, and should indicate that any bylaws and/or rules and regulations of the MLS will be subject to final approval by the board of directors of the association of REALTORS®. It is important that the authorizing article in the association's bylaws spell out all of the details clearly as to the association's multiple listing service, and it is recommended to associations of REALTORS® that they adopt Article XVIII of the model bylaws recommended to member associations by the NATIONAL ASSOCIATION OF REALTORS®. The adoption of this article will ensure the appropriate authorization and implementation of an association MLS.

Whether the multiple listing service should be operated as a committee of the association or as a wholly-owned subsidiary, is a matter to be determined by the local association with advice of its accountant and its association legal counsel. In this connection, there are a variety of considerations which must be reviewed, including, of course, the differential in the tax rate applicable to unrelated business income of an association and the income of a for-profit corporation. Generally, it is recommended by the National Association that a multiple listing service be operated as a committee of the association and that all the necessary effort be made to ensure that the association maintains its tax-exempt status. However, as indicated, it is necessary for the association and its members to be completely aware of the special effort that must be made to maintain the proper perspective of the multiple listing service as compared to overall association activity. Generally speaking, the association must be able to demonstrate that the annual budget of the MLS as compared to the overall annual budget of the association of REALTORS® is less than 50% and preferably less than 30%. Lawrence B. Jerome, a former Chief of the Exempt Organizations Branch of the Internal Revenue Service, is now retired from the Internal Revenue Service, and served as a consultant to the National Association on tax matters. Mr. Jerome, in an article published in *The Executive Officer*, September, 1974, states, "The IRS has never published a position on how significant particular services must be to cause loss of exemption," but that he generally believed that, "fairly sound guidelines" are that loss of exemption is clearly indicated if the performance of particular services exceeds 50% of an association's total activities. He further expressed an opinion that tax exemption for the association is likely to be challenged and revocation of the tax exemption becomes a strong possibility if particular services (i.e., MLS) are more than 30% of an association's activities, unless there are other issues or mitigating circumstances. Mr. Jerome warned that, "the foregoing guidelines can change drastically if the IRS modifies its interpretations or if the courts begin to take a harder or softer stand in this area." In summary, however, the safest position that an association can take is to ensure that the unrelated business income represented by funds received from the MLS operation bears the smallest feasible percentage ratio to the overall budget of an association as possible. This is the most convincing proof that a multiple listing service is, in fact, just one of the many worthwhile activities of an association of REALTORS®.



If, however, the association concludes with advice of its accountant and association legal counsel that it cannot sustain the necessary relationship of an incidental activity as a committee of the association and still preserve its tax-exempt status as an association, or if the tax consequences of such a relationship are seriously adverse, then it should consider the alternative method of operating the MLS as a wholly-owned subsidiary of the association, with all stock of the subsidiary corporation owned by the association of REALTORS® and with any bylaws and/or regulations subject to final approval by the board of directors of the association. Operated as a wholly-owned subsidiary, the multiple would maintain its own budget, separate and apart from the association, and would pay taxes on any surplus accruing at the end of its fiscal year. The operation of the multiple as a taxable, for-profit corporation would be similar in certain respects to the operation of a nonprofit corporation—for example, the multiple could still accrue and maintain a reasonable surplus for continued operation in times of economic downturns or to maintain and improve the facilities required to operate the multiple listing service.

It is specifically noted that the taxes are due and payable on any surplus of funds accruing to the MLS at the end of the fiscal year, irrespective of whether the multiple listing service is operated as a committee of the association or as a wholly-owned subsidiary. This is true because of the determination by IRS that a multiple listing service is the type of business ordinarily carried on for profit and that it provides a particular service to the member Participants and, as such, the income derived is classified as unrelated business income. Hence, it is emphasized that an association must always pay tax on its MLS operation providing unrelated business income irrespective of how the MLS is structured.

In either case, whether as a committee or as a wholly-owned subsidiary corporation, action should be taken by the multiple listing service to ensure that it operates basically on a break even basis. Whenever a reasonable operating reserve has been accumulated, it is time to reduce income being generated by the MLS to a point close to break even. The multiple listing policy of the National Association establishes that charges for multiple listing in an association service will approximate the cost incurred in providing the service to the member Participants. The MLS should not be a primary source of funding for an association of REALTORS®, at least while its membership is limited exclusively or primarily to association members. Reduction or elimination of service fees, listing fees, or subscription charges should be made as necessary to operate the MLS at or close to the desirable break even point.

3. **Documentation of Staff Time Devoted to the Multiple Listing Service:** The association should be prepared to demonstrate the number of staff personnel whose time is utilized in the operation of the multiple as opposed to the total number of staff involved in the overall operations of the association. The records maintained to document this should also establish the type of personnel operating the multiple. For example, the successful effort of one association to maintain its tax-exempt status cited the fact that only three members of a staff of ten were assigned to full-time work with the multiple listing service and that these personnel were clerical type employees. The remaining members of staff had only incidental duties related to MLS, and it was indicated that minimal duties of the executive vice president of the association related to the operation of the service. This served to clearly demonstrate that a major portion of the staff's efforts were related to the overall operation of the association and that the MLS operation required only approximately 30% of staff for its operation.
4. **Value Analysis of Noncompensated Services of Members of the Association:** The association should prepare and maintain, as a continuing documentation, a comprehensive value analysis of the noncompensated time and service provided by members of the association to conduct the many and varied activities, programs, and projects of the association. In any association of REALTORS®, association activities are primarily conducted through the efforts of association members donating many valuable hours of their time. To purchase such services as are donated by the members of the association of REALTORS® would be prohibitive for most associations. These services represent value contributed by the members and value received by the association, and careful documentation can serve to establish the considerable monetary value of such activities. When the total monetary value is determined by calculation of the hours of such service provided and the establishment of a reasonable value for such services, this value can be added to the overall gross income of the association, and if appropriately verified, should prove acceptable to the Internal Revenue Service should a challenge arise to the tax-exempt status of the association. Appropriate forms for documenting this type of noncompensated time and service by association members are attached as Appendices 6 and 7 of this Handbook.

5. **Committees of the Association:** The multiple listing committee (if MLS is operated as a committee of the association) is only one of the many committees of the association of REALTORS®. The association should document and be prepared to demonstrate at any time the total number of committees and total number of members serving on these committees. An appropriate listing of all of the committees of the association, with attendant statement of organization and procedure, will document that in addition to multiple listing, the association provides a broad and myriad program of activity, including effective orientation programs, continuing educational programs to improve and elevate the professional status and competency of its members, community affairs programs, legislative action programs, professional standards and arbitration proceedings, equal opportunity programs, affirmative marketing programs, membership recruitment programs, and many other such activities. Similar comparative documentation can be made when the MLS is a wholly-owned subsidiary of the association and is governed by a board of directors, subject to approval of the board of directors of the association of REALTORS®.
6. **Analysis of Agenda of Board of Directors:** A ready source of authoritative documentation is available to any association of REALTORS® to substantiate the fact that it has a broad spectrum of programs and activities, of which the multiple listing service is only a part. This documentation source is the minutes of the board of directors of the association. These minutes reflect the ongoing business of the association, as discussed by the directors, and the number of times any item appears in the minutes in ratio to the number of times other items are discussed, which reflects its proportionate importance. Therefore, in most cases, it can be readily shown that such minutes reflect the discussion of many and varied items in overwhelming proportion to the times the multiple listing service is discussed. In the documentation provided to the Internal Revenue Service by one association of REALTORS®, an analysis of this type reflected that the MLS of the association was discussed 31 times in a given period of time, whereas other items of association activity were discussed 396 times. This served eloquently to reflect the fact that MLS was an incidental activity of the association in a well-rounded program of activity.
7. **Time for Association Plan to Attain or Maintain Tax-Exempt Status:** Now is the time. It has been demonstrated in several instances cited in the preceding paragraphs that careful and comprehensive documentation is essential and can be successful in obtaining and/or maintaining the tax-exempt status of an association of REALTORS® operating a multiple listing service. Compiling such records requires both planning and careful execution to ensure that they accurately demonstrate a true picture of the multiple's position as an incidental activity of the association. These records do not appear spontaneously. If your association possesses tax-exempt status as an association, or plans to apply for such exempt status in the future, the time to begin the essential record-keeping is now. It can be done and should be done on a continuing basis with advice of the association's accountant and legal counsel.

Further questions or information concerning tax-exempt status of your association should be directed to Board Policy and Programs of the National Association. Any successful effort by an association to obtain or maintain tax-exempt status is welcomed by the National Association.

It is also recommended to associations of REALTORS® having lost tax-exempt status at some point that every effort be made to regain such exempt status at the earliest possible time. **I**

## **Appendix 4, 5, 6, 7 and 8**

**Note:** Appendices 4, 5, 6, 7 and 8 found in the published version of The Handbook on Multiple Listing Policy on pages 148-152 are not reproduced in this electronic version of the book. The Specimen Forms may be downloaded, printed or completed on-line at [REALTOR.org](http://REALTOR.org)

## Appendix 9

### Select Interpretations from the Official Interpretations of Article I, Section 2 of the NATIONAL ASSOCIATION OF REALTORS® Bylaws as Referred to in this Handbook

#### **INTERPRETATION NO. 1** *(Adopted November 15, 1960)*

**“A requirement to participate in a Multiple Listing Service in order to gain and maintain REALTOR® membership is an inequitable limitation on its membership.”**

When a Multiple Listing Service is available, is well operated and properly organized, it is the duty of the REALTOR® to consider thoroughly whether he can serve the best interests of his clients by participating in it. The decision, however, must be his own. As a REALTOR®, it is possible for him to conduct his business in an ethical and efficient manner without participating in a Multiple Listing Service. Therefore, his participation must not be a requirement of REALTOR® membership.

#### **INTERPRETATION NO. 2** *(Adopted January 24, 1961)*

**“An initiation fee in excess of three times the amount of the annual rates of dues is an inequitable limitation on its membership.”**

Member Boards must not place unreasonable burdens on applicants for membership. The requirements for membership must be reasonable and nondiscriminatory.

The initiation fee, if any, charged by a Board must not constitute an unreasonable barrier to membership of a person otherwise qualified. Nor should a Board seek to finance its activities and operations from initiation fees.

The National Association deems any initiation fee in excess of three times the amount of the annual rates of dues, including state and national, to be unreasonable and therefore inequitable.

Since under Interpretation No. 1, participation in a Board Multiple Listing Service is not mandatory, the Board initiation fee, if any, must be separate from any participation fee which may be charged for the Multiple Listing Service.

#### **INTERPRETATION NO. 6** *(Adopted January 24, 1961)*

**“Any regulation restricting or limiting the practice of a REALTOR® in the conduct of his business, unless it concerns ethical practice, is an inequitable limitation on its membership.”**

This Interpretation establishes a rather general guide to the type of rules which a Board may adopt, i.e., in furtherance and support of the Code of Ethics, but guards against the type of rules which unreasonably restrict the Member in the conduct of his business on a basis other than related to the Code of Ethics.

The intent of this Interpretation is to avoid the necessity of the Board of Directors passing upon innumerable details about which Boards constantly inquire. The administrative staff is under instruction to advise a Member Board, upon inquiry, as to whether a practice or proposed rule appears to be inconsistent with, or in violation of, the Bylaw against inequitable rules. If the Member Board then wishes to request an official interpretation by the Board of Directors, it may do so.

Any Member also is entitled to an interpretation upon request. However, as a matter of policy, the National Association prefers that inquiries come from Member Boards. It cannot, however, deny any Member the right to request an interpretation.

**INTERPRETATION NO. 9** *(Adopted January 24, 1961, Revised May 8, 1973)*

**“Requirement of a ‘Waiting Period’ before being considered for REALTOR® membership is not an inequitable limitation on its membership if related to the period of time necessary to process the application, not to exceed six months.”**

It is consistent with assurance of ethical business practice for a Board of REALTORS® to require that an applicant for membership submit an application detailing past history. The National Association, as a matter of policy, urges thorough investigation into the background of applicants for membership. This affords the Board an opportunity to investigate the individual’s business conduct and record.

An applicant is entitled to prompt consideration of his application and final disposition of such application must be made within six months.

**INTERPRETATION NO. 10** *(Adopted May 9, 1961, Revised November 12, 1988)*

**“A Board rule purporting to require a REALTOR® who holds an exclusive listing to give blanket consent to either subagents or cooperating brokers representing buyers to arrange appointments to show listed property directly with the owner or to negotiate the purchase of listed property directly with the owner, rather than through the listing broker, obstructs observance of Article 3, and thereby is an inequitable limitation on its membership.”**

This Interpretation affirms the basic agency relationship between the listing broker and his principal as defined in the listing contract. A Board or MLS rule may not properly interfere with or supersede the relationship established by the terms of the agreement between the broker and his principal.

The cooperating broker as a subagent of the listing broker or as an agent of the buyer enjoys only such rights to show or sell the listing as are granted to him by the listing broker who is ultimately responsible to the principal.

**INTERPRETATION NO. 11** *(Adopted May 9, 1961)*

**“A rule of a Member Board prohibiting the acceptance of open listings by Members is an inequitable limitation on its membership.”**

Although the Preamble of the Code of Ethics places upon the REALTOR® the aspirational ideal that he “urge the exclusive listing of property . . . ,” it does not provide that a nonexclusive listing should not be accepted.

The REALTOR® must be free to enter into any form of listing contract mutually agreeable to the REALTOR® and the client.

**INTERPRETATION NO. 14** *(Adopted May 9, 1961, Revised January 26, 1971)*

**“A Member Board rule or practice which requires Members to adhere to a schedule of fees or commissions, or which authorizes or includes the preparation or publication of a recommended schedule of fees or commissions, is contrary to the Code of Ethics and to the policy of the NATIONAL ASSOCIATION OF REALTORS® and is an inequitable limitation on its membership.”**

**INTERPRETATION NO. 15** *(Adopted May 9, 1961)*

**“A Board rule prohibiting REALTORS® or their salesmen from accepting elective or appointive public office, or requiring their resignation if they accept such office, is an inequitable limitation on its membership.”**

**INTERPRETATION NO. 16** *(Adopted May 9, 1961)*

**“A Board rule prohibiting employment of married women as salespersons is an inequitable limitation on its membership.”**

This Interpretation is a specific application of the general policy of Interpretation No. 20.

**INTERPRETATION NO. 17** *(Adopted November 16, 1961)*

**“A Board rule imposing an age limit upon applicants for membership is an inequitable limitation on its membership.”**

Age is not a reasonable criterion for membership.

**INTERPRETATION NO. 21** *(Adopted November 12, 1962)*

**“A Board rule regulating the number of married women that may be employed is an inequitable limitation and comes within Interpretation No. 16.”**

**INTERPRETATION NO. 25** *(Adopted May 11, 1965)*

**“A Board rule which prevents the participation of a REALTOR® Member, on equal terms with other REALTOR® Members, in a Multiple Listing Service sponsored, organized or sanctioned by the Board, and which is available to REALTOR® Members throughout the Board’s jurisdiction, is an inequitable limitation on its membership.”**

A Board rule which makes services available to some REALTOR® Members, but not to other REALTOR® Members, when such services are available generally throughout the Board’s jurisdiction, is an inequitable limitation upon the membership.

**INTERPRETATION NO. 26** *(Adopted May 10, 1966, Revised November 16, 1977)*

**“A Board rule prohibiting the posting by members of ‘for sale’ or other similar signs on property for which the member is agent is an inequitable limitation on its membership.”**

The right to display “for sale” or other similar signs reasonably designed to inform the public is protected by the First Amendment to the United States Constitution. Thus, any rule prohibiting the posting of such signs would be an unconstitutional infringement of the freedom of speech of the REALTOR® and his client. Similarly, a Board owned or operated Multiple Listing Service may not endorse any programs by municipalities, civic groups or civil rights organizations to ban or curtail signs, even if such programs are “voluntary,” because of the “chilling effect” such endorsement might have on the exercise of First Amendment rights.

### **INTERPRETATION NO. 29** *(Adopted May 8, 1973)*

**“Application and entrance fees for participation in an Multiple Listing Service, owned by, operated by or affiliated with a Board of REALTORS®, in excess of the approximate cost, including the accumulation and maintenance of reasonable reserves, of developing, maintaining, or improving the organization as a going concern, is an inequitable limitation on the membership.”**

All services of a Board of REALTORS®, including Multiple Listing Service, should be available to all REALTOR® Members without restrictive entrance and application fees. Such fees should be related to the approximate costs of bringing the Service to the member and must not be computed on the basis of the number of listings of a Multiple Listing Service or on the basis of a pro rata share of its assets.

### **INTERPRETATION NO. 30** *(Adopted May 8, 1973)*

**“Enforcement of the Code of Ethics by any group, within or without the Board of REALTORS®, other than the Professional Standards Committee and the Board of Directors of the Board of REALTORS®, is an inequitable limitation on its Members.”**

Member Boards are required by Article IV of the Bylaws of the National Association to enforce membership compliance with the Code of Ethics. This obligation is properly fulfilled by the Professional Standards Committee and the Board of Directors of the Board. Delegations of this function by the Board to any other body, such as a Multiple Listing Committee, is not appropriate.

### **INTERPRETATION NO. 31** *(Adopted May 8, 1973, Revised January 31, 1977)*

**“A Board rule or a rule of a Multiple Listing Service owned by, operated by or affiliated with a Board, which establishes, limits or restricts the REALTOR® in his relations with a potential purchaser, affecting recognition periods or purporting to predetermine entitlement to any award in arbitration is an inequitable limitation on its membership.”**

In essence, this is a specific interpretation of the general rule established in Interpretation No. 6 that a Board may not have a rule which restricts or limits the REALTOR® in the conduct of his business unless it concerns ethical practice. Thus, a rule of a Board or Multiple Listing Service which would determine a protection period in reference to a prospective purchaser is an inequitable limitation. Further, the Board or its MLS may not establish a rule or regulation which purports to predetermine entitlement to any awards in a real estate transaction. If controversy arises as to entitlement to any awards, it shall be determined by a hearing in arbitration on the merits of all ascertainable facts in the context of the specific case of controversy.

### **INTERPRETATION NO. 32** *(Adopted May 8, 1973, Revised November 11, 2013)*

**“The inclusion in the dues payable by Board Members of costs of services, products or activities of the Board which properly should be optional is an inequitable limitation on its membership.”**

The dues payable by Board Members should represent the allocable costs of the services, products and facilities which are available to and benefit the Members generally, either directly or indirectly. It should not include the costs of those services, products or facilities which can be identified as optional. Thus, for example, the cost of participating in the Board’s MLS should not be included as part of Board dues since whether a Member determines to participate in such an activity will depend upon the Member’s particular method or type of business. The reasonable cost of meals at general membership meetings held pursuant to the Board’s Bylaws may be included in Board dues since such meetings are necessary to the operation of the Board as a whole provided that no more than 35% of the local allocation of the Board’s annual dues revenue may be utilized for this purpose. Associations may, at their discretion, include the costs of lockboxes and lockbox keys, programmers, fobs, smart cards, and other access devices in the association dues.



**INTERPRETATION NO. 33** *(Adopted February 5, 1974)*

**“It is an inequitable limitation to deny membership to an applicant who maintains an office for the conduct of a real estate business which is open for business during the normal business hours, recognized in the community, and who holds himself out to the public as being actively engaged in real estate business solely upon the grounds the applicant is not so engaged.”**

This Interpretation does not contemplate that the broker must devote all or even a majority of his time to his real estate business or derive any particular percentage of his income from such business. It does not contemplate that the licensee shall have no other job or occupation. It does contemplate that the licensee shall actively seek real estate business; that he shall maintain and adequately supervise a real estate office.

Where question arises as to whether or not a licensee is “actively engaged” in the real estate business, he shall be given the opportunity to present evidence concerning the actual and intended nature and scope of his business activities.

**INTERPRETATION NO. 34** *(Adopted November 12, 1974)*

**“It shall be an inequitable limitation for a Board to require a separate office in each Multiple Listing Service area where there is more than one Multiple Listing Service owned or controlled by the Board within the jurisdiction of the Board in order to participate in each such Multiple Listing Service.”**

A REALTOR® is entitled to participate in any and all services and programs sponsored by the Board of REALTORS®. A Board rule which circumscribes the right to such participation restricts and limits the conditions of Board membership in violation of Article I, Section 2, of the Bylaws of the NATIONAL ASSOCIATION OF REALTORS®.

To institute a divisional Multiple Listing Service based on geographic lines within a Board’s jurisdictional area limits access to Board services and activities in a way which could be deemed and adjudged arbitrary and unreasonable.

As such, it is merely an extension of Interpretation No. 25 in that it refers specifically to the right of a REALTOR® to participate in a Board-owned-and-controlled Multiple Listing Service and any geographic division thereof without the necessity of having an office within said geographic division.