NATIONAL ASSOCIATION OF REALTORS®

MLIP Committee Recommendations

Below are the four possible recommendations, and one alternate recommendation, being considered by the NAR Multiple Listing Issues and Policies Committee. For more information go to the Committee Meeting on November 7, 10:30am to 12 noon, at the Ernest N. Morial Convention Center, La Novelle Orleans Ballroom A-B, Second Floor. Additional information will also be available on http://nar.realtor.

Recommendation #1:

To adopt a new MLS Policy Statement clearly authorizing and establishing the local discretion of an MLS to create MLS Data Feed Services that address demands for MLS data feeds by MLS Participants needing to meet locally establish criteria.

> ***(new) MLS Policy Statement XX – MLS Data Feed Services***
>
> *An MLS has discretionary authority to develop local Data Feed Services when providing data feeds to MLS Participants (and Subscribers, where authorized) that includes the listing content of other MLS Participants. This can include, but is not limited to, data feeds for IDX, VOW, BBO and syndication, provided an MLS Participant (and Subscriber, where authorized) can still access MLS listing content through the MLS platform or through other MLS approved means (e.g. web API,) and share it with their clients and customers consistent with local MLS Participation.*
>
> *An MLS may also establish local eligibility requirements and licensing for MLS Data Feed Services that require reasonable, objective, and equally applied criteria to all Participants seeking MLS Data Feed Services.*
>
> *Local eligibility requirements may consider items including, but not limited to, contribution of listing content to the MLS, transactional activity as an agent or recognized non-agent of a buyer or seller, technical readiness, cyber security and compliance, and the execution of applicable agreements.*
>
> *An MLS must act on requests for MLS Data Feed Services within its ordinary processing timeframes.*
>
> *Nothing in this Policy Statement limits a Participant's right to access MLS listing content through the MLS platform or other approved systems or to receive a data feed of the Participant's own listing content.* ***O***

Note: If an MLS decides to offer Data Feed Serves, any local eligibility requirements must be reasonable, objective, and equally applied criteria to all Participants.

Rationale: To enable local MLSs to consider data feed services and local market interests and factors.

Recommendation #2:

Motion: To establish a new MLS Policy Statement about the use of MLS data within the scope of a Participant's or Subscriber's real estate license and within the purpose of the MLS.

Policy Statement XX - Use of MLS Data Policy
Use of MLS data not permitted by the MLS Participation Agreement or an MLS data license agreement is prohibited.

A Participant or Subscriber may use MLS data within the scope of their real estate license and in connection with providing real estate brokerage services and preparing appraisals or other valuations of real property.

Note: Per MLS Policy Statement 8.3, a Participant retains the ability to receive a data feed of the Participant's own listing content without limitation on its use. ***M***

Rationale: Addresses growing concerns around unauthorized use of MLS content.

Recommendation #3

To revise MLS Policy Statement 7.85, Ownership of Listing and Listing Content, and adopt a new optional MLS Policy Statement that strengthens an MLS's ability to enforce copyright and address copyright violations with the ability to obtain ownership in listing content.

(changes are shaded, strikethrough text are deletions, underlined test additions)

MLS Policy Statement 7.85, Ownership of Listing and Listing Content
The listing broker owns the listing agreement. Prior to submitting a listing to the MLS, the listing broker ~~should~~ must own or have the authority to license all listing content (e.g., photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property) to be published in the MLS compilation of listing information. (Amended 5/16)

Use of listings and listing information by MLSs for purposes other than the defined purpose of MLS requires participants' consent. Such consent cannot be required as a condition of obtaining or maintaining MLS participatory rights.

MLSs may presume such consent provided that listing brokers are given adequate prior notice of any intended use unrelated to the defined purpose of MLS and given the opportunity to affirmatively withhold consent for that use.

Participants cannot be required to transfer ~~any~~ all rights (including intellectual property rights) in their listings or listing content to MLS to obtain or maintain participatory rights except that MLSs may require participants to grant the licenses necessary for storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS. MLSs may also require participants to warrant that they have the rights in submitted information necessary to grant these rights to MLS. (Adopted 5/05, Amended 11/26) ***M***

(new) MLS Policy Statement XX – Copyright Protection of Broker Listings and MLS Data

To assist in securing copyright protection for individual photographs and property descriptions submitted to the MLS, an MLS may require a Participant to assign no more than a 50% undivided copyright interest in such content, provided that the MLS registers eligible database updates containing the content with the U.S. Copyright Office at least quarterly. This assignment must not restrict the Participant from independently using, reproducing, displaying, distributing, or granting nonexclusive licenses for the listing content. (Adopted 11/26) ***O***

Rationale: Addresses growing concerns regarding the unauthorized use, scraping, and repurposing of MLS content.

Alternate Recommendation #3

MLS Policy Statement 7.85, Ownership of Listing and Listing Content

The listing broker owns the listing agreement. Prior to submitting a listing to the MLS, the listing broker ~~should~~ must own or have the authority to license all listing content (e.g., photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property) to be published in the MLS compilation of listing information. (Amended 5/16)

Use of listings and listing information by MLSs for purposes other than the defined purpose of MLS requires participants' consent. Such consent cannot be required as a condition of obtaining or maintaining MLS participatory rights. MLSs may presume such consent provided that listing brokers are given adequate prior notice of any intended use unrelated to the defined purpose of MLS and given the opportunity to affirmatively withhold consent for that use. Participants cannot be required to transfer any rights (including intellectual property rights), unless they adopt MLS Policy Statement XX, in their listings or listing content to MLS to obtain or maintain

participatory rights except that MLSs may require participants to grant the licenses necessary for storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS. MLSs may also require participants to warrant that they have the rights in submitted information necessary to grant these rights to MLS. (Adopted 5/05, Amended 11/26) **M**

(new) MLS Policy Statement XX – Copyright Protection of Broker Listings and MLS Data

To assist in securing copyright protection for individual photographs and property descriptions submitted to the MLS, an MLS may require a Participant to assign no more than a 50% undivided copyright interest in such content, provided that the MLS registers eligible database updates containing the content with the U.S. Copyright Office at least quarterly. However, an MLS must provide Participants with the right to opt-out of assigning a copyright interest to the MLS. This assignment must not restrict the Participant from independently using, reproducing, displaying, distributing, or granting nonexclusive licenses for the listing content without obtaining the MLS's consent, subject to the MLS's rights as a co-owner and any terms governing the parties' respective rights and obligations. (Adopted 11/26) **O**

Rationale: Addresses growing concerns regarding the unauthorized use, scraping, and repurposing of MLS content, with a listing broker opt out.

Recommendation #4

To adopt updates to the qualification criteria to serve on the NAR Multiple Listing Issues and Policies Committee as follows:

> *1–3 years of experience serving on a Multiple Listing ~~Issues and Policies~~ Service Committee or Board of Directors at the local or state level, or comparable experience with a related third-party entity.*
>
> *Applicants should demonstrate a skill set and familiarity with: 1) real estate technology, 2) MLS or Association leadership, and 3) training, included, but not limited to, CMLX, CMLXV, RED-B, RED-CA, and RED-T.*

Rational: Align Committee member qualifications with experience and skills needed to address MLS industry issues.