

MINUTES

CHAIR Greg Zadel (Firestone, CO)
COMMITTEE LIAISON Rick Harris (Medford, OR)
STAFF EXECUTIVE Rodney Gansho (Chicago, IL)

I. CALL TO ORDER / OPENING REMARKS:

The meeting of the MLS Technology and Emerging Issues Advisory Board was called to order at 8:30 A.M. CT by Advisory Board Chair Greg Zadel.

II. APPROVAL OF THE MINUTES:

The minutes for the March 25-26 meeting were approved as written.

III. ANTI-TRUST AND CONFIDENTIALITY STATEMENT:

Information about NAR's anti-trust and confidentiality policy was shared by Charlie Lee, Senior Counsel and Director of Legal Affairs.

IV. RESO UPDATE:

Sam DeBord, CEO, RESO, reported on the latest details for certifications with Web API 1.0.2 and Data Dictionary 1.7. He also shared information about the RESO's education course, *Working with Real Estate Data: Business Concepts*, and the upcoming RESO Retreat October 18-21 in Kiawah Island, SC.

V. PROHIBITING THE ADVERTISING OF SERVICES AS "FREE":

It was moved, seconded, and carried.

Motion: That the following be adopted as MLS Policy Statement 8.4:

Policy Statement 8.4: MLS Participants and Subscribers must not represent that their services as an agent or representative to a buyer or seller in a real estate transaction are free or available at no cost to their clients.

Rationale: While REALTORS® have always been required to advertise their services accurately and truthfully, and many REALTOR® services have no cost to the recipient, this change creates a bright line rule on the use of the word “free” that is easy to follow and enforce. These benefits outweigh the fact that this bright line may result in REALTORS® being unable to use the word “free” for some services they provide at no cost to the recipient.

VI. NON-FILTERING LISTINGS BASED ON OFFERS OF COMPENSATION OR BROKERAGE

It was moved, seconded, and carried.

Motion: That a new MLS Policy Statement 8.5 be adopted and the IDX and VOW policies and model rules be amended, as provided below. (Strikeouts indicate deletions, underscoring indicates additions):

Policy Statement 8.5: *MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter or restrict MLS listings that are searchable by and displayed to consumers based on the level of compensation offered to the cooperating broker or the name of a brokerage or agent.*

Amendments to Policy Statement 7.58 (in pertinent part):

Policies Applicable to Participants' IDX Websites and Displays...

4. Participants may select the IDX listings they choose to display 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), ~~cooperative compensation offered by listing brokers,~~ or type of listing (e.g., exclusive right-to-sell or exclusive agency), ~~or the level of service provided by the listing firm.~~ Selection of IDX listings to be displayed must be independently made by each participant.

Amendments to Policy Statement 7.91 (VOW) (in pertinent part):

Section II. Policies Applicable to Participants' VOWs...

5.h. A 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, ~~cooperative compensation offered by listing broker or whether the listing broker is a REALTOR®.~~

Amendments to NAR's Model MLS Rules and Regulations (both types) (in pertinent part):

Section 18. IDX Defined

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), ~~cooperative compensation offered by listing brokers, or type of listing (e.g., exclusive right-to-sell or exclusive agency), or the level of service being provided by the listing firm.~~ Selection of listings displayed through IDX must be independently made by each participant.

Section 19. VOW Defined

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. ~~cooperative compensation offered by listing broker and whether the listing broker is a REALTOR®.~~

Rationale: These changes reflect the recent developments in real estate brokerage services, evolving broker business models, and how online marketing and searching of listings have evolved.

VII. MLS STANDARDS WORK GROUP

It was moved, seconded, and carried.

Motion: That the following be added to the list of “MLS Best Practices” available as an informational resource for MLSs on nar.realtor.

Compliance:

1. **Best Practice:** MLSs should issue discipline for violations of local MLS rules consistent with the guidance provided in Part Two, F, Enforcement of Rules, found in the NAR Handbook on Multiple Listing Policy.

Data:

2. **Best Practice:** MLSs should post on their website written instructions for requesting MLS data feeds that are available to Participants and their vendors, including an explanation of the different feeds and the information provided in each feed. This includes contact information for administrative and technical support. The data transport method should be RESO Web API compliant.
3. **Best Practice:** By July 1, 2022, MLSs should create with their vendors and leadership a written plan with a timeline and cost estimate to establish a native* RESO Data Dictionary compliant MLS for all listing content available to MLS Participants and Subscribers.

“Native” means all of the MLS’s data access services for Participants, Subscribers, vendors, designees, and other authorized recipients must be delivered Data Dictionary compliant data without the need to convert it from some other format.

4. ***Best Practice:*** *Where available, MLSs should share aggregated data, for statistical purposes, with their state association of REALTORS® and NAR to assist with advocacy efforts and home ownership interests.*

Governance

5. ***Best Practice:*** *MLSs should provide all officers and directors information about their fiduciary duty to the MLS and have them sign an agreement that confirms their understanding and commitment to those duties.*
6. ***Best Practice:*** *MLSs should adopt and annually review a strategic plan to address Participant and Subscriber needs with specific consideration for: 1) leadership training, 2) partnerships, 3) technology, 4) participant outreach, 5) financial independence, and 6) DEI (diversity, equity, and inclusion).*

Rationale: Adopted locally, these Best Practices should deliver a higher level of service and engagement with MLS Participants and Subscribers. Although they are not required to be followed, MLSs should consider each Best Practice to determine support for local adoption and implementation.

VIII. MLS DATA ACCESS AND USE

The Advisory Board discuss and considered the REAL Proposal and the ADS Proposal and other concepts related to MLS data access and use.

Sam DeBord, CEO, RESO, reported on his blog post titled, *Horde of The Rings: One Feed to Rule Them All (MLS Data)* and the concept of one data feed to service all of the data licensing needs for MLS Participants and Subscribers.

It was moved, seconded, and carried.

Motion: That the following Policy Statement be adopted:

Policy Statement 8.6: *MLSs must offer a Participant, or their designee, a single data feed in accordance with a Participant’s licensed authorized use.*

Rationale: One data feed will create efficiencies for Participants, and their designees, when authorized to use MLS data for multiple purposes.

It was moved, seconded, and carried.

Motion: That the following Policy Statement be adopted:

Statement 8.7: Brokerage Back Office Feed

Participants are entitled to use, and MLSs must provide to Participants, a Brokerage Back Office Feed per the Data, Use and Terms established below:

“Data” means all real property listing and roster information in the MLS database, including all listings of all Participants, but excludes (i) MLS only fields (those fields only visible to MLS staff and the listing Participant), and (ii) fields and content to which MLS does not have a sufficient license for use in the Brokerage Back Office Feed.

“Use” - The Brokerage Back Office Feed Data may only be used by the Participant, Subscribers affiliated with the Participant, and their designees for the following purposes:

- *Brokerage management systems.*
- *Customer relationship management (CRM), and transaction management tools.*
- *Agent and brokerage productivity and ranking tools, and reports.*
- *Marketplace statistical analysis and reports in conformance with NAR MLS Policy Statement 7.80, which allows for certain public distribution.*

There is no option for Participants to opt-out their listings from the Brokerage Back Office Feed Use as defined.

“Terms” mean the following:

- *MLSs may impose reasonable licensing provisions and fees related to Participant’s license to use Brokerage Back Office Feed Data. MLSs may require the Participant’s designee to sign the same or a separate and different license agreement from what is signed by the Participant. Such provisions in a license agreement may include those typical to the MLS’s data licensing practices, such as security requirements, rights to equitable relief, and dispute resolution terms. (The foregoing examples are not a limitation on the types of provisions an MLS may have in a license agreement.)*
- *Use of roster information may be limited by the MLS participation agreement and license agreements.*
- *Brokerage Back Office Feed Use is subject to other NAR MLS policies and local rules.*

- *MLSs in their reasonable discretion may expand the definition of Brokerage Back Office Feed Use in conformance with other NAR MLS policies, such as Policy Statement 7.85, which provides that “Use of listings and listing information by MLSs for purposes other than the defined purposes of MLS requires Participants’ consent.”*

Rationale: Today’s brokerage community utilizes many productivity tools, and proprietary reports and resources that call for enhanced access to and use of MLS data. This new Policy Statement will empower Participants with the information they need to better serve their clients and customers.

IX. LISTING BROKER ATTRIBUTION

It was moved, seconded, and carried.

Motion: That the IDX and VOW policies be amended as follows:

(Underlining indicates additions; strikeouts indicate deletions.)

Internet Data Exchange (IDX) Policy, Policy Statement 7.58

Policies Applicable to Participants’ IDX Websites and Displays

12. An MLS Participant’s IDX display must identify the listing firm and contact information 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. The contact information for the listing firm must be clearly identified and displayed at least as prominently as any other contact information or lead form on the site.

IV. Requirements that MLSs May Impose on the Operation of VOWs and Participants, Policy Statement 7.91.

d. Any listing displayed on a VOW shall identify the name of the listing firm and contact information in a readily visible color, and reasonably prominent location, and in typeface not smaller than the median typeface used in the display of listing data. The contact information for the listing firm must be clearly identified and displayed at least as prominently as any other contact information or lead form on the site.

(Accompanying changes will be made to the NAR Model MLS Rules and Regulations.)

Rationale: Listing broker attribution with contact information could provide a more accurate representation to the public about the listing, and improve the public’s ability to seek additional property details.

X. MLS SAFETY FIELDS UPDATE

Kim Zwiener, 2021 Chair of the NAR REALTOR® Safety Committee, reported on the latest efforts and progress by the joint Work Group of the Multiple Listing Issues and Policies Committee, REALTOR® Safety Committee, and Risk Management Committee to develop MLS fields for use to “flag” properties that may have potential safety concerns for REALTORS®.

XI. OTHER BUSINESS

The Advisory Board approved a referral to the NAR Diversity Committee for consideration of brokers using the term “his and her closets” when marketing listings.

The Advisory Board agreed to continue discussing MLS data access and use, and any concepts that were not already addressed in the motions approved during the meeting or in existing policy.

The Advisory Board also received and discussed the following correspondence.

- August 31, 2021 letter from the Broker Resource
- August 29, 2021 email from Craig Cheatham, President and CEO, The Realty Alliance
- REAL Drafting Statement (comparing the REAL Proposal and existing IDX and VOW policies).

XII. ADJOURNMENT

The Advisory Board meeting was adjourned at 12:00 p.m. on Friday, September 10, 2021.

MEMBERS PRESENT:

Tom Berge Jr.
 Miguel Berger
 Brad Bjelke (remote)
 Chris Carrillo
 Art Carter (remote)
 Jon Coile (Committee Chair)
 Merri Jo Cowen
 Sam DeBord
 Carl DeMusz
 Brian Donnellan (remote)
 Kathy Elson

Tina Grimes
Rick Harris (Liaison)
Jeffery Levine
Stan Martin (remote)
Nicole Murray
Robert Strickland
Christopher Tausch (remote)
Deborah Wey
Julie Moore
Greg Zadel (Advisory Board Chair)

STAFF:

Nick Blair
Dave Conroy
Dan Doepke
Chris Harrigan
Charlie Dawson
Henry Digacomo
Bernelly Gamboa
Rodney Gansho
Breanne Gingerich
Katie Johnson
Ashley Labanics
Charlie Lee
Dan Weisman

GUESTS:

Denee Evans
Janet Judd
Caitlin McCrory
Mitch Skinner
Kim Zwiener