

ESTABLISHING A COMMERCIAL OVERLAY BOARD

EXHIBIT A

INTRODUCTION:

The Board of Directors of the National Association of REALTORS® at the 1992 Annual Convention authorized the establishment of Commercial Overlay Boards of REALTORS®. A Commercial Overlay Board co-exists and shares (overlays) geographic jurisdiction with one or more REALTOR® associations, in order to better serve members in a commercial market area. At the same time, the territory currently assigned to existing associations remains intact as well as their right and obligation to provide services to their members. COB jurisdictions may be local, multi-market, state-wide and inter-state.

THE PURPOSE OF THE COMMERCIAL OVERLAY BOARD

IDENTITY:

Provides commercial members a separate REALTOR® identity within their local market area that enhances their image in the corporate community and among commercial practitioners.

INFLUENCE:

Provides an organizational voice to influence legislation, liaison with other industry groups, and positively impact their local communities.

REPRESENTATION:

Promotes the interests of commercial members at the state and national REALTOR® levels.

EDUCATION:

Offers education programs, seminars, and courses to keep members current on vital issues, better able to serve the public, and that meet state-mandated continuing education license requirements.

MEMBER SERVICES:

Provides the services and programs that attract new members, retain existing members, and help them become more successful commercial practitioners.

DATABASE:

Facilitates the creation of a local Commercial Information Exchange (CIE) or Commercial/Industrial Multiple Listing (C/I MLS) or other property services.

ETHICS & ARBITRATION:

Provides the body of peers needed to enforce the Code of Ethics and Standards of Practice of the National Association of REALTORS®, and to administer arbitration cases.

PROFESSIONAL DEVELOPMENT:

Promotes professional designations and certification programs that are available through the five NAR Commercial Affiliates (CCIM, CRE, IREM, RLI and SIOR), State Associations, and through the NATIONAL ASSOCIATION OF REALTORS®.

AFFILIATE MEMBERS:

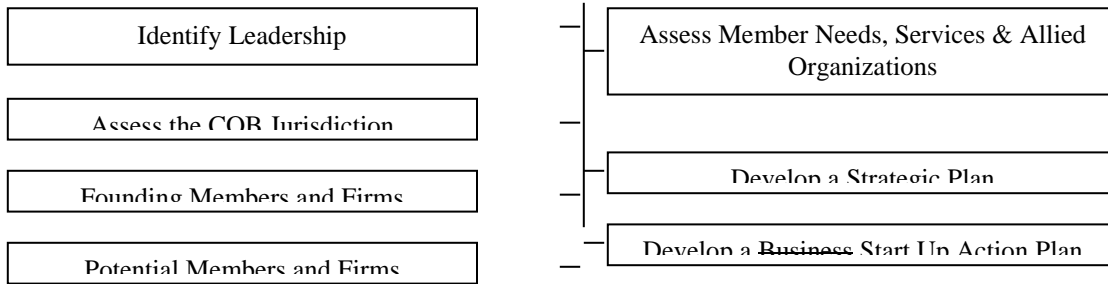
Provides a venue for those in affiliated industries to network with members with whom they conduct business.

SECTION 1: Issues for consideration in establishing a COB

NOTE: The following issues for consideration are designed to assist potential applicant groups in assessing the viability of a commercial overlay board. These are not mandatory. The mandatory procedures for submitting a COB application are set forth in Section 2.

MARKET RESEARCH

Conduct market research to assess the potential for creating a viable COB.



A. IDENTIFY LEADERSHIP

Identify a core group of respected, dedicated and committed commercial members to lead the effort to propose and create the COB. Choose those who are known, knowledgeable and helpful within the commercial brokerage market place. Leadership must be committed. They must make an unwavering decision to expend the COBs resources to furnish a minimum level of commercial services to its members.

B ASSESS THE COB JURISDICTION AREA

The market area in which the COB commercial members' practice defines the targeted jurisdiction. A market area may either be a city, MSA, region, state or multiple states. It's a good idea to initially encompass the most expansive jurisdiction to include as many commercial practitioners as the COB can realistically support.

C IDENTIFY POTENTIAL MEMBERS AND FIRMS

Identify the potential number of COB members and firms within the proposed jurisdiction. Sources of members are commercial practitioners, members of local NAR commercial Affiliate chapters, and members of allied commercial organizations such as Building Owners & Managers Association (BOMA), the International Council of Shopping Centers (ICSC) and National Association of Industrial and Office Parks (NAIOP).

E ASSESS MARKET CONDITIONS, MEMBER NEEDS, SERVICES & ALLIED ORGANIZATIONS

- Appraise the local market conditions and list the ways a COB can assist commercial practitioners to increase their transactions. One of the approaches may be to describe the market environment and what economic forces are driving the market.
- Determine member needs: Who competes with the new COB? What are the alternatives? What services, programs, activities are being offered that the COB can do better? What services can the COB deliver that are not being offered? Are there niche markets? What services help members increase the number of transactions individually and collectively?
- Only promise what the COB can deliver. As the COB evolves, build upon experience and success. Transaction-oriented core services the COB may consider are continuing education, CIE, networking opportunities (marketing sessions, trade shows, special events) and governmental advocacy.
- Successful COBs have allied themselves with organizations such as universities, economic development agencies and NAR Commercial Affiliate chapters to collectively enhance commercial services in a jurisdiction.

F DEVELOP A STRATEGIC PLAN

The purpose of the Strategic Plan is to summarize the information gathered during the assessment stage and give the COB direction. The findings from the environmental scan, surveys and focus groups should help identify what core services are needed, how they will be delivered and by whom. Not too long after the COB and new Board of Directors, Committee Chairs, Staff and other key players in the new COB settle in, the Strategic Plan should be adjusted and modified.

- Environmental external scan
- What is the Mission of the COB?
- What are the COB goals, objectives and strategies?

G DEVELOP A START UP ACTION PLAN

The action plan details what the Leadership Group implementing the formation of the COB will do, when, and who will be accountable. The plan may include the following:

- What will be the COB name
- List the COB Founding/Chapter members and firms
- Define the Jurisdiction
- Who will prepare a Jurisdiction map
- Who will manage and staff the COB (negotiate a management agreement, if necessary)
- Where will the COB be located and in what facility
- What funds, if any, are needed to start-up the COB
- Where will the start-up funds come from, if necessary
- How will the COB be financed
- Prepare a Pro Forma Budget
- Who will collect the dues to be submitted with the application
- Prepare Governing documents
- Prepare a time chart relating to the Application process including the important dates to meet the requirements.
- Who will be responsible for completing the COB Application
- Who will represent the COB through the application process at the State and National meetings
- Who will serve on the interim Board of Directors
- When will the first Board of Director's election be held

Section 2 - PROCEDURES FOR PROCESSING A COMMERCIAL OVERLAY BOARD APPLICATION (Mandatory)

COMMERCIAL BOARD APPLICATION PROCESS

NOTE: A commercial board must be a free standing entity which is not subservient to any existing board(s). However, it is entirely appropriate for a commercial overlay board to contract with an existing board to provide administrative services for the new commercial entity.

First Step By Applicant Group: A letter must be submitted to all affected Boards (i.e., those Boards that will share jurisdiction with the proposed commercial overlay board) by registered or certified mail, advising them of the proposed new board. Affected boards must have at least 60 days to respond. Copies of letters to the affected Boards and copies of all replies shall be furnished to the State Association and the NATIONAL ASSOCIATION OF REALTORS® with the group's application. All of the materials and documentation detailed in Section 4, Administrative Procedures for Processing a Commercial Board Application must also be completed and submitted with the application. If there are no objections from the affected Board(s), then the group's application will proceed as an "uncontested" application. The application must be considered by the State Association's Board of Directors (or other duly appointed group) and the State Association's recommendation shall be provided to NAR's Membership Policy & Board Jurisdiction Committee for consideration and recommendation to the NAR Board of Directors where the final decision is made. In the event the State Association is not recommending approval of the application, the state association's recommendation shall set forth the basis or grounds upon which it is made.

In the event of an objection by an affected Board all parties will have an opportunity to appear at a hearing before the State and National Associations to present their respective position. The criteria to be utilized in considering such disputes is whether the affected Board is adequately representing and serving the needs of commercial practitioners within its assigned jurisdiction, and whether establishment of a commercial board will better serve the needs of commercial practitioners. The burden shall be on the applicant group to demonstrate that establishment of a commercial overlay board will better serve commercial practitioners in the disputed area. Section 3 includes a list of factors that may be considered by hearing panels. The list is not all inclusive and is intended to guide panels as to facts, issues, questions and other considerations that may facilitate their reaching fair, equitable, and reasoned decisions.

The hearing by the State Association shall include an opportunity for oral presentations by the parties (i.e., the applicant group and any objecting associations), questions from the hearing panel, and closing comments of the parties. All parties shall also have the opportunity to challenge any member of the hearing panel for disqualification from the hearing panel for valid cause. The allocated time frames shall be as determined by the state association. With respect to the oral presentations, each party may utilize a single spokesman or multiple spokesmen to present their respective cases, but must hold to the time frame provided irrespective of its election. Each party shall submit a written statement (and any supporting materials) setting forth the basis upon which the application should be granted or denied. The written statement must be submitted at least 20 days prior to the hearing by the State Association. The written statements and oral presentations by the parties should speak to the criteria and factors for consideration (Section 3), as this is the criteria that will be utilized by the State and National Associations in considering such disputes. Other issues concerning the duration, nature, scope and conduct of any hearing shall be within the sole discretion of the State Association.

The State Association shall be requested to make a recommendation to the National Association based upon the information contained in the written statements and the oral presentations made by the parties at the hearing before the State Association. The recommendation shall be made within forty-five (45) days after the meeting of the Board of Directors, and shall set forth the basis or grounds upon which it is made. The State Association shall also furnish to the National Association copies of any written statements (and supporting materials) submitted by the parties in accordance with these procedures which shall be utilized in any subsequent hearing by the National Association. No further written materials may be submitted by the parties. The State Association may recommend approval of the application; approval of the application with modifications to the requested territory; or may recommend denial of the application.

The recommendation of the State Association shall be furnished to all parties by the National Association. Any party may request a hearing by NAR's Membership Policy and Board Jurisdiction Committee provided such request is made within thirty (30) days after completion of service of the recommendation of the State Association. If the parties accept the recommendation of the State

Association, then the matter would not proceed to a hearing at the national level. However, any uncontested application for commercial board status is subject to final approval by the Membership Policy and Board Jurisdiction Committee and Board of Directors of the National Association.

Any hearing by the Membership Policy & Board Jurisdiction Committee (or duly constituted hearing panel) shall include an opportunity for oral presentations by the parties (i.e., the applicant group and any objecting associations), questions from the hearing panel, and closing comments of the parties. All parties shall also have the opportunity to challenge any member of the hearing panel for disqualification from the hearing panel for valid cause. The allocated time frames shall be as determined by the Chair. With respect to the oral presentations, each party may utilize a single spokesman or multiple spokesmen to present their respective cases, but must hold to the time frame provided irrespective of its election. Other issues concerning the duration, nature, scope and conduct of any hearing shall be within the sole discretion of the Committee. The Committee (or duly appointed hearing panel) may recommend approval of the application; approval of the application with modifications to the requested territory; or may recommend denial of the application. The decision of the Committee (or duly constituted hearing panel) will be final, except that any party may file a request for procedural review of the decision by the NAR Board of Directors based only on alleged procedural deficiencies or other irregularities the party believes constitute a deprivation of due process. Requests for procedural review shall be considered in accordance with the procedure established by the Board of Directors.

All filings or other documents required under this procedure which are not filed within the time limits prescribed herein may be accepted at the discretion of the Chair of the hearing panel.

Commercial overlay board hearings are not “legal” proceedings or “trials” and are not subject to the customary rules applicable to judicial proceedings such as rules of evidence or cross examination of the other parties’ presenters.

The Membership Policy and Board Jurisdiction Committee shall not consider an application for establishment of a commercial overlay board if, within a period of two (2) years prior to the date the application is received, the NAR Board of Directors has denied the same or substantively similar application provided, however, that the relevant criteria for considering establishment of a commercial overlay board has not been amended during that two (2) year period.

SECTION 3 - CRITERIA FOR CONSIDERATION OF A CONTESTED APPLICATION FOR ESTABLISHMENT OF A COMMERCIAL OVERLAY BOARD

When considering a "contested" application for establishment of a commercial overlay board, the hearing panel must determine whether the affected Board is adequately representing and serving the needs of non-residential practitioners within its assigned jurisdiction, and whether establishment of a commercial board structure will better serve the needs of non-residential practitioners. The following is a list of items by which to measure the performance of an affected Board, and to measure the abilities of the applicant group to fulfill the obligations of their application. These are typical of, but are not all inclusive of, the questions or factors to be considered by the hearing panel in its deliberations.

SUBSECTION 1: Which group can better serve the needs of non-residential practitioners in the areas described below:

- A. Provide an effective non-residential group that will attract new members and retain existing members.
- B. Identify and develop services which meet the needs of non-residential practitioners.
- C. Provide educational opportunities to advance the level of professionalism and competence.
- D. Provide networking opportunities.
- E. Provide a focal point to address legislative issues affecting non-residential real estate.
- F. Foster relations and interaction with chapters of the Institutes, Societies and Councils.
- G. Have an established communication process for non-residential issues.
- H. Provide liaison with other related industry groups.

I. Maintain a functioning professional standards process to enforce the NAR Code of Ethics and provide for mediation and arbitration.

J. Protect and promote proper use of the REALTOR® registered trademark.

SUBSECTION 2: In addition to the criteria established in Section I, the hearing panel may also consider the following issues:

A. What programs, services, and administrative support are being provided to non-residential members by the affected Board(s)?

B. What is the degree of Member satisfaction with these services?

C. What is the ratio of commercial membership to total membership within the affected Board(s)?

D. What percentage of the affected Board's budget is allocated to non-residential services?

E. Do a majority of non-residential members within the affected Board(s) support the petition of the applicant group?

F. Do petitioners have sufficient members, financial resources and management support to conduct the activities and programs required of a Member Board of the NATIONAL ASSOCIATION OF REALTORS®?

SECTION 4 - ADMINISTRATIVE PROCEDURES FOR PROCESSING A COMMERCIAL BOARD APPLICATION

The formation of a commercial board starts at the local level and proceeds to the State Association and then to the NATIONAL ASSOCIATION OF REALTORS® where the final determination is made.

The following is a list of forms and materials which will need to be completed and submitted. These forms and materials must be submitted simultaneously to the state and national associations for consideration.

1. **APPLICATION FOR MEMBERSHIP:** This form must be completed in duplicate, signed by the proposed board's President and Secretary (or other appropriate representatives). The recommendation of the state association (page 2 of the form) must be dated and signed by the State President and forwarded to the National Association.
2. **AGREEMENT TO USE THE TERM REALTORS® IN NAME OF MEMBER BOARD:** This form must be completed in duplicate and signed by the proposed Board's President and Secretary (or other appropriate representatives). Upon approval of the proposed Board's application by the National Association, the President and Secretary of the National Association will sign the agreement and a copy will be provided to the new Board for its official records.
3. **DESCRIPTION OF TERRITORIAL JURISDICTION:** A detailed description of the territorial jurisdiction requested for approval must be placed on the application form, or if more space is required, it may be submitted as an addendum to the application form. The description must be defined in terms of metes and bounds (except if county, counties, or other stable legal subdivision such as town, city or township).
4. **MAP OF TERRITORIAL JURISDICTION:** A sufficiently detailed map must be submitted which clearly indicates the territorial jurisdiction requested for approval showing both the affected board(s) and contiguous boards. The entire boundaries of the requested territorial jurisdiction should be outlined in a distinctive color on the map.
5. **NOTIFICATION TO AFFECTED MEMBER BOARDS:** A letter must be submitted to all affected boards (i.e., those boards that will share jurisdiction with the proposed commercial overlay board) by registered or certified mail, advising them of the proposed new commercial overlay board. Copies of the notification letters and all replies shall be included in the materials furnished to the state and National Associations.
6. **PROPOSED NAME OF NEW BOARD:** Any name selected by a commercial board must include the term "commercial" and must also include the phrase, "Board (or Association) of REALTORS®". Example: "ABC Commercial Association of REALTORS®". However, the terms "commercial" and "REALTORS®" may not be used consecutively (i.e., Commercial REALTORS®).
7. **PROPOSED BYLAWS OF NEW BOARD:** The proposed commercial board's Bylaws must be submitted to the National Association for review and approval to ensure compliance with NAR policy. The Model Board Bylaws for a commercial board are the same as those for any other board of REALTORS®. These may be adopted verbatim by simply filling in the blank spaces and selecting an option in those sections where two or more options are available. Please highlight any differences in your Bylaws and the Model Bylaws when submitting them for review.

There are two (2) types of Model Bylaws. One is for boards that maintain categories of 'REALTOR® and REALTOR-ASSOCIATE® membership, and the other is for boards that have adopted the "All-REALTOR®" concept in membership. Both structures maintain favorable status in the National Association and the structure which is adopted by the commercial board is completely a matter for local judgment and determination.

NOTE: If the board intends to operate a commercial MLS or commercial information exchange copies of the Bylaws (if applicable) and Rules & Regulations must be submitted for review. Model Bylaws and Rules and Regulations can be found in the *Handbook on Multiple Listing Policy --Commercial/Industrial Supplement*.

8. INCORPORATION: It is strongly recommended that the proposed board consider incorporation. If a decision is made to incorporate, proposed Articles of Incorporation should be provided to the National Association with the application but should not be filed with the Secretary of State until the applicant group is advised of charter status by the National Association.

9. MEMBERSHIP LIST: A list of all charter firms and members must be included with the application. Minimum: 10 firms, and 15 members.

10. MEMBERSHIP DUES: Membership dues of the proposed new commercial board must be submitted with the application, computed *in accordance with* Article II, Bylaws of the National Association, and prorated from the beginning of the quarter in which the application will be submitted to the National Association for approval.

NOTE: In calculating the dues payable to the state and National Associations, individuals who have already been included in an existing board's dues obligation to the state and National Associations shall not be considered. Further, any rebate of the local allocation of board dues previously paid to an existing board *is* at the discretion of the existing board.

11. 45-DAY REQUIREMENT: All requests to place items on the agenda for consideration by the Membership Policy and Board Jurisdiction Committee for its subsequent recommendation to the Board of Directors and all required forms of application and supporting documentation must be received in the Chicago office of the National Association at least 45 days prior to the next regularly scheduled meeting of the Committee.

