**WHO IS THE PARTICIPANT…**

**IN A MULTIPLE LISTING SERVICE?**

The terms “participant” or “member” as applied to a Board-owned Multiple Listing Service can only be used to describe a broker principal or principals, or a firm comprised of principals. The terms “participant” or “member” should not be used to describe any persons other than principals. Any nonprincipal brokers or sales licensees affiliated with an MLS “participant” or “member” has access to and use of the Multiple Listing Service information through the REALTOR® with whom they are affiliated as employees or independent contractors.

A REALTOR® (broker principal) has the option of participating or not participating in the Board Multiple Listing Service. If he elects to participate, subject only to agreeing to abide by the MLS Rules and Regulations and payment of required fees, he is then entitled to subscribe to the MLS for as many of the MLS cards, sheets or books as he may want or need for all brokers or sales licensees affiliated with him. Thus the Multiple Listing Service information is available to the REALTOR® “participant” or “member” of the MLS and through him to any and all licensees affiliated with him, irrespective of whether such persons are members of the Board.

The preceding explanation is provided because in reviewing governing documents of Boards of REALTORS®, it is apparent that some Boards have not been aware of this information as approved and set forth in the HANDBOOK ON MULTIPLE LISTING POLICY. Some Boards continue to define nonprincipals as “participants” or “members” of the Board’s MLS and to thus provide access or utilization of the Service on the basis of the individual’s “membership in the Board,” and to bill such persons directly as “members.” Such practice ignores the proper role of the principal broker with whom the nonprincipals are affiliated, and the unlimited access to which he is entitled for use by himself and all who are affiliated with him. The principal has voluntarily elected to operate as a REALTOR® and pays Board membership dues as a designated REALTOR® on a proportional basis for the broad spectrum of benefits, privileges, and services that accrue to him as a REALTOR® and to all who are affiliated with him. The MLS is just one of the many “services” of the Board to which he is entitled. It must not be circumscribed or qualified except for the obligation to pay fees as required and to abide by the MLS Rules and Regulations. The broker (REALTOR®) principal is entitled to use the Service and is responsible to the Service for himself and all affiliated with him. The principal is the participant and he should be billed by the Multiple Listing Service for payment of all fees. Direct billings by the Service should not be made to nonprincipal brokers or sales licensees. The broker principal has the option of requiring the individuals affiliated with him to reimburse him for the amount billed to him for each individual using the Service, or he may elect to have no such requirement. CAVEAT: The REALTOR® participant should require by agreement with him independent contractors that they reimburse him for the cost of the Service provided through the REALTOR® principal to them. This will help to clearly establish their independent contractor status.

The suggested Rules and Regulations, HANDBOOK ON MULTIPLE LISTING POLICY, establish as a matter of equity that the Board MLS may properly require the “participant” or “member” to pay for a separate set of MLS cards or sheets or for a separate book for each sales licensee (broker or salesman) affiliated with the “participant” who “have access to and who utilize the Service.” (See Section 6 (d), NOTE 2, “Suggested Rules and Regulations,” HANDBOOK ON MULTIPLE LISTING POLICY.) The emphasis is on “use” of the Service by such persons. If a sales licensee brings listings to the participant and such listings are filed by the “participant” with MLS, this is “use” of the Service. If a sales licensee sells properties published by the MLS, this is “use” of the Service. Boards should accept the REALTOR®’S certification as to what persons affiliated with him “use” the Service, and the REALTOR® may obtain a waiver from the Board to avoid payment of a subscription fee for individuals who do not, at any time, use the Service. In no instance should a Board require a REALTOR® who participates in the MLS to pay a subscription fee for an individual affiliated with him who has no use for and does not use the Service.

The question as to who is the proper participant in a Multiple Listing Service is a frequently recurring one, and the preceding information is a brief synopsis of policy information appearing in various publications of the National Association. The Member Services Department will be happy to provide additional information upon request.

THE EXECUTIVE OFFICER

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