

# **MLS & PROFESSIONAL STANDARDS UPDATE**

KEVIN MILLIGAN, VP BOARD POLICY & PROGRAMS

# MLS UPDATE



# **MLS UPDATE**

**MLS Technology and Emerging Issues Advisory Board met September 18 & 19.**

**Four recommendations for consideration by the NAR Multiple Listing Issues and Policies Committee at the REALTORS® Conference and Expo in New Orleans.**



# MLS UPDATE

**Recommendation 1: Amendments to NAR's IDX Policy and IDX Rules reducing the time to refresh all MLS IDX downloads and displays to not less frequently than 12 hours. The current requirement is not less than three (3) days.**

# MLS UPDATE

**Recommendation 2: Amendments to NAR's IDX Policy and IDX Rules to require inclusion of sold information in IDX feeds unless sold information is not publicly accessible.**



# MLS UPDATE

**Recommendation 3: Amendments to NAR's IDX Policy and IDX Rules allowing MLS Participants (and where permitted locally, MLS Subscribers) to comingle IDX data feeds from REALTOR® Association MLSs where the MLS Participants and MLS Subscribers hold participatory rights.**



# MLS UPDATE

**“Comingling” as used in the IDX policy means that consumers can execute a single property search of multiple IDX data feeds resulting in the display of IDX information on a single search results page; and that MLS Participants and MLS Subscribers may display listings from each MLS IDX feed on a single webpage or display.**

# MLS UPDATE

**Recommendation 4: Amendments to MLS Policy Statement 7.90, Real Estate Transaction Standards (RETS), to require adoption and implementation of RETS Web API by January 1, 2016.**





# MLS UPDATE

What is an API?

API, short for Application Program Interface, describes a data transfer method that eliminates the need to copy listings between servers. The MLS becomes the original and only source of MLS property data.



# MLS UPDATE

## Benefits of API:

Provides MLS participants/subscribers with improved MLS data access including faster updates/results, increased security, and ease of use in displaying property information.



# MLS UPDATE

The RESO Data Dictionary standardizes all available data fields for software programming and eliminates the need to “map” local MLS data. This will not preclude MLSs from using local terminology for naming data fields.



# PROFESSIONAL STANDARDS UPDATE




# PROFESSIONAL STANDARDS UPDATE

Recommendations of the Expedited  
Enforcement Work Group


“Streamlining” the existing ethics enforcement  
procedures.



# PROFESSIONAL STANDARDS UPDATE

- Existing administrative and procedural deadlines enhanced.
  - Optional “fast track” hearing process.
  - Email preferred form of service for notices and documents.
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# PROFESSIONAL STANDARDS UPDATE

- Strongly encourage use of conference calls and other technologies to expedite decision making process.
  - Eliminate the “extreme circumstances” requirement to participate in hearings remotely.
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# PROFESSIONAL STANDARDS UPDATE

- Adoption of a Model Citation Policy to simplify and expedite processing of minor violations of the Code of Ethics.
- All associations to provide ombudsman services on or before January 1, 2016.



## **Minutes**

Multiple Listing Issues and Policies Committee  
2014 REALTOR<sup>®</sup> Party Convention & Trade Expo  
Thursday, May 15, 2014  
9:00 a.m. – 12:00 noon  
Regency Ballroom, Lower Level  
Omni Shoreham Hotel  
Washington D.C.

### **ACTIONS REQUIRING BOARD OF DIRECTORS APPROVAL**

- Amendments to Multiple Listing Policy Statement 7.79, Reproduction of MLS information

#### **Call to Order**

The meeting of the Multiple Listing Issues and Policies Committee was called to order at 9:00 a.m. by Committee Chair Bill Lublin.

#### **Multiple Listing Service Forum**

The Multiple Listing Service Forum was called to order by Chair Joe Horning. Ohannes Antebian, Vice President of Industry Relations for the REALTOR<sup>®</sup> Property Resource updated the Forum on the status of RPR and the new MLS dashboard.

Robert Bailey, Chair of the MLS Technology and Emerging Issues Advisory Board discussed the Advisory Board's proposed amendments to MLS Policy Statement 7.79, Reproduction of MLS Information, addressing use of MLS information to create automated valuation models ("AVMs") using third-party software. Numerous comments and constructive suggestions were offered by Forum participants.

Ted Loring Jr., Chairman of the Data Strategies Committee and Mark Lesswing, NAR Chief Technology Officer, discussed Alternative Program Interfaces ("APIs"), an alternative method for data control and ownership to protect listing content. An API is a method of delivering MLS information directly from the MLS for displays by participants in real time and without duplication.

The Forum discussed local issues, including MLS model rule 2.7.

Given the interest of attendees in the proposed amendments to Multiple Listing Policy Statement 7.79, the Forum was extended beyond its scheduled time and adjourned at 10:45 a.m. at which point the Multiple Listing Issues and Policies Committee was called into session.

#### **Approval of Minutes of the 2013 REALTORS<sup>®</sup> Conference and Expo**

The minutes of the November 9, 2013 meeting were approved as written.

## Old Business

### Examples of “basic” services in Multiple Listing Policy Statement 7.57, *Categorization of MLS Services, Information and Products*

Robert Bailey, Chair of the MLS Technology and Emerging Issues Advisory Board reported that this issue was considered at the March, 2014 meeting of the Advisory Board, and it was the consensus of the Advisory Board that existing MLS Policy Statement 7.57, *Categorization of MLS Services, Information and Products* is appropriate as written, and that no changes would be recommended to the Committee.

## New Business

### Amendments to Multiple Listing Policy Statement 7.79, *Reproduction of MLS information*

It was moved, seconded and carried:

#### Motion:

That Multiple Listing Policy Statement 7.79 be amended as follows (underscoring indicates additions, strikeouts indicate deletions):

*Reproduction of MLS-generated information is subject to the following limitations:*

**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 ~~an estimate of value~~ valuations on a particular ~~property~~ properties for a particular ~~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. However, only such information that an association or association-owned multiple listing service has deemed to be nonconfidential and necessary to support the estimate of value may not be reproduced and attached to the report used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

**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.

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 an estimate of value valuations on a particular property properties for a particular 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. However, only such information that an association or association-owned multiple listing service has deemed to be nonconfidential and necessary to support the estimate of value may not be reproduced and attached to the report used as supporting documentation. Any other use of such information is unauthorized and prohibited by these rules and regulations.

~~**Option #3:** Participants or their affiliated licensees shall not, under any circumstances, reproduce any MLS compilation or any portion thereof.~~

*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. (Adopted 11/04)*

**Important Notes:**

- This recommendation was subsequently approved at the May 17, 2014 meeting of the Board of Directors.
- Section 12.2 of the model MLS rules will be amended to reflect the above changes.
- At the same meeting, the Board of Directors also approved the following, related motion:

*If the above recommendation of the Multiple Listing Issues and Policies Committee is adopted, that staff and counsel develop information and resources including model third-party license agreements, checklists of key issues and concerns, educational materials and other information necessary for MLSs to ensure that MLS-provided information is used by MLS participants and their third-party technology providers only for specified, authorized purposes.*

**Adjournment**

There being no further business to come before the Committee, the meeting was adjourned at 12:05 p.m. on Thursday, May 15, 2014.

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Bill Lublin, Vice Chair  
Multiple Listing Issues and Policies Committee  
National Association of REALTORS®

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Cliff Niersbach  
Staff Executive

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Date

## **Minutes**

Professional Standards Committee  
2014 REALTOR® Party Convention & Trade Expo  
Thursday, May 15, 2014  
1:00 p.m. - 5:30 p.m.  
Regency Ballroom, Lower Level  
Omni Shoreham Hotel  
Washington, D.C.

### **ACTIONS REQUIRING BOARD OF DIRECTORS APPROVAL**

- Section 18, Function, and Section 20(a), Initiating an Ethics Hearing, *Code of Ethics and Arbitration Manual*
- Publishing the names of Code of Ethics violators – California Association of REALTORS® pilot program
- “Probation” clarified
- Section 14, Nature of Discipline, *Code of Ethics and Arbitration Manual*

### **Call to Order**

The meeting of the Professional Standards Committee was called to order at 1:00 p.m. by Committee Chair Brad Knapp.

### **Professional Standards Forum**

The Professional Standards Forum was conducted by Chair Carolyn D’Agosta and Vice Chair George Wonica.

Chair D’Agosta reviewed the Professional Standards Committee’s potential action items and invited comments and questions from the Forum attendees.

Chair D’Agosta presented the issue of “Pocket Listings / No Lockbox / Accompanied Showings” and its impact on the industry. Forum attendees expressed concern about whether brokers employing these methods are protecting the best interests of their sellers.

Vice Chair Wonica invited attendees to share local professional standards issues and concerns.

### **Approval of the Minutes of the 2013 REALTORS® Conference & Expo**

The minutes of the November 9, 2013 meeting were approved as written.

### **Old Business**

#### **REALTORS® Code of Ethics Training Update**

Rodney Gansho, Director, Policy Information, updated the Committee on development of NAR’s new on-line training program. Committee members were able to see a sample page from the module-based course and to ask questions about the project’s anticipated launch.

### **Pre-hearing meetings of ethics hearing panels**

It was moved, seconded and carried:

#### **Motion:**

That the concluding portion of Section 18, Function, and Section 20(a), Initiating an Ethics Hearing, *Code of Ethics and Arbitration Manual*, be amended as follows (underscoring indicates additions, strikeouts indicate deletions):

*When Grievance Committees refer ethics complaints and arbitration requests for hearing, hearing panel chairs can determine if questions about*

- 1) whether ethics complaints and arbitration requests are timely filed,*
- 2) whether arbitrable issues exist,*
- 3) whether arbitration requests are too legally complex to be fairly arbitrated, and*
- 4) other administrative issues*

*will be addressed through a pre-hearing meetings of the hearing panel or at the outset of the hearing prior to testimony relating to the ethics complaint or arbitration request commencing. If these matters rise during a hearing, the hearing panel will address them at that time.*

*Dismissals of ethics complaints and arbitration requests by hearing panels can be appealed to the Board of Directors on the same bases as dismissals by the Grievance Committee.*

*Where such issues are considered at a pre-hearing meeting of the hearing panel, the chair will determine whether the parties may be present, and the extent to which their participation will be permitted.*

~~*Any proceeding convened to resolve such issues must include all of the procedural due process safeguards required for ethics and arbitration hearings.*~~

(Note: This recommendation was subsequently approved at the May 17, 2014 meeting of the Board of Directors.)

### **New Business**

#### **Publishing the names of Code of Ethics violators – California Association of REALTORS<sup>®</sup> pilot program**

It was moved, seconded and carried:

#### **Motion:**

That the pilot program described in the California Association of REALTORS<sup>®</sup>, (“C.A.R.”) January 29, 2014 *Proposal for Publication of Ethics Discipline To the National Association of REALTORS<sup>®</sup>*, and as further discussed in C.A.R.’s *Supplemental and Response to Questions Regarding the Proposal for*

*Publication of Ethics Discipline to the National Association of REALTORS®*, be approved subject to the conditions detailed in the NAR Discipline Work Group's February 26, 2014 letter including:

- Information about the number of ethics hearings conducted by local associations in California in 2013 and 2014 until the pilot program goes "live".
- A "launch" report detailing the steps taken from approval of the pilot program proposal through implementation and activation statewide.
- Annual reports that include qualitative data, quantitative data, as well as anecdotal information on the extent to which decisions (including fact summaries) are relied on by complainants and respondents as precedent in subsequent hearings involving different parties.
- Information on the initial and ongoing costs of implementing and administering the pilot program, including hardware and software, legal and staff time, and other costs.

(Note: This recommendation was subsequently approved at the May 17, 2014 meeting of the Board of Directors.)

#### **"Probation" clarified**

It was moved, seconded and carried:

#### **Motion #1:**

That Section 1(r), Definitions Relating to Ethics, *Code of Ethics and Arbitration Manual*, be amended as follows (underscoring indicates additions, strikeouts indicate deletions):

- (r) *"Probation" means that a ~~another~~ form of discipline recommended by the Hearing Panel will be held in abeyance for a stipulated period of time which may not exceed one (1) year. Any subsequent finding of a violation of the Code of Ethics 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 shall be considered fulfilled, and the record shall reflect the fulfillment. The fact that one or more forms of discipline will be held in abeyance during the probationary period does not bar the imposition of other forms of discipline which will not be held in abeyance. (Revised 11/96)*

It was moved, seconded and carried:

#### **Motion #2:**

That Section 14(e), Nature of Discipline, *Code of Ethics and Arbitration Manual*, which currently describes "probation" as a separate form of discipline be deleted, and that the deleted provision be amended as follows (underscoring indicates additions, strikeouts indicate deletions) and reinserted as the new concluding paragraph of Section 14.

*\*Probation means that ~~a another~~ form of discipline recommended by the Hearing Panel will be held in abeyance for a stipulated period of time which may not exceed one (1) year. Any subsequent finding of a violation of the Code of Ethics 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 shall be considered fulfilled, and the record shall reflect the fulfillment. The fact that one or more forms of discipline will be held in abeyance during the probationary period does not bar the imposition of other forms of discipline which will not be held in abeyance. (Revised 11/96)*

(Note: These recommendations were subsequently approved at the May 17, 2014 meeting of the Board of Directors.)

### **Enjoining ongoing unethical conduct as an authorized form of discipline**

It was moved, seconded and carried:

#### **Motion:**

That Section 14, Nature of Discipline, *Code of Ethics and Arbitration Manual*, be amended as follows (underscoring indicates additions):

*Disciplinary action may consist only of one or more of the following. Refer to Appendix VII to Part Four of this Manual for sanctioning guidelines.*

- (a) Letter of Warning with copy to be placed in member's file;*
- (b) Letter of Reprimand with copy to be placed in member's file;*
- (c) Requirement that member attend the ethics portion of the Board Indoctrination Course or other appropriate course or seminar specified by the Hearing Panel which the respondent could reasonably attend taking into consideration cost, location, and duration;*
- (d) Appropriate and reasonable fine not to exceed \$15,000 (Revised 5/13);*
- (e) Member placed on probation for a stated period of time not less than thirty (30) days nor more than one (1) year;\**
- (f) Membership of individual suspended for a stated period not less than thirty (30) days nor more than one (1) year with automatic reinstatement of membership in good standing at the end of the specified period of suspension. The thirty (30) day minimum and one (1) year maximum do not apply where suspension is imposed for a remediable violation of a membership duty (e.g., failure to pay dues or fees or failure to complete educational requirements). The Directors may order suspension unconditionally, or they may, at their discretion, give the disciplined member the option of paying to the Board, within such time as the Directors shall designate, an assessment in an amount fixed by the Directors, which may not exceed \$15,000 and which can be utilized only once in any three (3) year period, in lieu of accepting suspension. But, if the conduct for which suspension is ordered consists of failure to submit a dispute to arbitration, the Directors may not permit the disciplined*



*member to avoid suspension without submitting to the arbitration in addition to paying the assessment, unless in the meanwhile the dispute has been submitted to a court of law without any objection by any party that it should be arbitrated;\*\* \*\*\* (Revised 11/13)*

- (g) Expulsion of individual from membership with no reinstatement privilege for a specified period of one (1) to three (3) years, with reinstatement of membership to be by application only after the specified period of expulsion, on the merits of the application at the time received (decision should be written clearly articulating all intended consequences, including denial of MLS participatory or access privileges); (Revised 4/96)*
- (h) Suspension or termination of MLS rights and privileges may also be utilized. Suspension of MLS services may be no less than thirty (30) days nor more than one (1) year; termination of MLS services shall be for a stated period of one (1) to three (3) years; (Revised 5/02)*
- (i) REALTORS<sup>®</sup> who participate in MLS or otherwise access MLS information through any Board or Association in which they do not hold membership are subject to the Code of Ethics in that Board or Association on the same terms and conditions as Board members. Discipline that may be imposed may be the same as but shall not exceed the discipline that may be imposed on members. Boards (i) entering into regional or reciprocal MLS agreements are encouraged to include provisions requiring signatory Boards to respect, to the extent feasible, decisions rendered by other Boards involving suspension or expulsion from membership or from MLS. (Revised 4/96)*
- (j) Members may also be required to cease or refrain from continued conduct deemed to be in violation of the Code, or to take affirmative steps to ensure compliance with the Code, within a time period to be determined by the hearing panel. Where discipline is imposed pursuant to this subsection, the decision should also include additional discipline (e.g. suspension or termination of membership) that will be imposed for failure to comply by the date specified, and to continue to comply for a specified period not to exceed three years from the date of required compliance.*

*In addition to any discipline imposed, Boards and Associations may, at their discretion, impose administrative processing fees not to exceed \$500 against each respondent found in violation of the Code of Ethics or other membership duties. Any administrative processing fee will be in addition to, and not part of, any disciplinary sanction imposed. Boards and Associations shall determine in advance when, and under what circumstances, administrative processing fees will be imposed so that imposition is a matter of administrative routine. (Revised 5/13)*

*\*Probation means that another form of discipline recommended by the Hearing Panel will be held in abeyance for a stipulated period of time which may not exceed one (1) year. Any subsequent finding of a violation of the Code of Ethics 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 shall be considered fulfilled, and the record shall reflect the fulfillment. (Revised 11/96)*

*\*\*\$15,000 is the maximum fine that may be assessed regardless of the number of Articles of the Code of Ethics that a member is determined to have violated in any given hearing. It is noted that a "reasonable and appropriate" fine may vary from \$1 to \$15,000 and should relate to the gravity of the offense and objective of the proposed sanction. (Revised 5/13)*

*\*\*\*Boards are advised that they should be guided by the provisions of Part Four, Section 24, Initial Action by Directors, and Part Ten, Section 56, Enforcement, of this Manual. Judicial enforcement should be used to enforce any award in arbitration. (Revised 9/87)*

(Note: This recommendation was subsequently approved at the May 17, 2014 meeting of the Board of Directors.)

**Other Business**

**Organizational Alignment PAG update**

Gavin Blair, Dayton Area Board of REALTORS® (OH) and Christine Todd, Northern Virginia Association of REALTORS® (VA) updated the Committee on the specifics of the Presidential Advisory Group's recommendation to the NAR Leadership Team.

**Adjournment**

There being no further business to come before the Committee, the meeting was adjourned at 3:30 p.m. on Thursday, May 15, 2014.

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Brad Knapp, Chair  
Professional Standards Committee  
National Association of REALTORS®

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Cliff Niersbach  
Staff Executive

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Date