

MLS Clear Cooperation Policy of National Association of Realtors (NAR) and additions made by Telluride Association of Realtors (TAR) owned Company – the Telluride Multiple Listing Service.

The Telluride Association of Realtors & Telluride MLS (TAR/MLS) shall at a minimum formally adopt, no later than May 1, 2020 the MLS Clear Cooperation policy created and passed by the National Association of Realtors (NAR). By NAR establishing a national policy, it is mandatory that all REALTOR® Association MLSs adopt the policy and have the same consistent standard. The NAR sections to be adopted at a minimum are as follows: Section 1.01. Section 1.3.

The Telluride Multiple Listing Service Inc. (Telluride MLS) also has the right to adopt specific language under the listing procedures with local amendments and policies to the MLS Clear Cooperation Policy of NAR as long as these local amendments and policies are ethical and just under NAR governing policies.

It must be noted that according to NAR the goals of the policy are as follows:

Brokers and MLSs from across the country asked NAR to consider policy that will reinforce the consumer benefits of cooperation. The MLS creates an efficient marketplace and reinforces the pro-competitive, pro-consumer benefits that REALTORS® have long sought to support. These policy changes are to create a positive impact on the industry and to address broker needs within the marketplace. The policy was strongly supported by the NAR MLS Committee and the NAR Board of Directors.

Below are the changes to the NAR model MLS Rules. These changes will be reflected in the Model MLS Governing Documents found in the 2020 Handbook on Multiple Listing Policy (updated version expected January 2020):

Section 1.01 – Clear Cooperation

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications

marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. (Adopted 11/19)

Note: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.3 of the NAR model MLS rules if it is being publicly marketed, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

Section 1.3 Exempt Listings

If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing (office exclusive) and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.

Note 1: Section 1.3 is not required if the service does not require all (indicate type[s] of listing[s] accepted by the service) listings to be submitted by a participant to the service.

Note 2: MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation.

The Telluride Association of Realtors® (TAR) seeks to make the N.A.R. definition of “public marketing” more precise by providing two examples of marketing that are public marketing and one example of marketing that is not public marketing. Two additional examples of public marketing are: (a) an email or other digital communication from any licensee at the listing brokerage firm to any real estate licensee outside of the listing brokerage firm, and (b) any email to any client of the listing brokerage firm--other than one-to-one promotion between licensees of the listing brokerage firm and clients of those licensees. An example of marketing that is not public marketing is one-to-one promotion between licensees of the listing brokerage firm and the clients of those licensees.

TAR MLS Clear Cooperation Policy FAQ's

In order to make the TAR MLS Clear Cooperation Policy simpler and easier to explain to your seller clients, the below policies with attached forms are to be used.

Just a reminder to make sure all properties that are not currently listed in the MLS (including expired, cancelled, withdrawn, or sold) are not allowed to have real estate, For Sale signs on the property.

Check your personal websites, company websites and third-party websites to ensure any listings that are not current in MLS are not being publicly marketed as this is a violation of Clear Cooperation.

What is the Clear Cooperation Policy?

- Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants.

What is public marketing?

- Public marketing includes, but is not limited to: flyers displayed in windows, yard signs, digital marketing on public facing websites, social media, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, public open houses and applications available to the general public *and* email or other digital communication from any licensee at the listing brokerage firm to any real estate licensee outside of the listing brokerage firm, and (b) any email to any client of the listing brokerage firm--other than one-to-one promotion between licensees of the listing brokerage firm and clients of those licensees.

To what property types does the Clear Cooperation Policy apply?

- The Clear Cooperation Policy applies to all MLS residential and residential land property types, farm and ranch and commercial properties. Residential includes residential homes, residential condominiums and residential fractional. Clear Cooperation does not cover new construction or new development in progress.

In what statuses can I publicly market a listing?

- All active statuses (Active, Pending).

In what statuses is public marketing not permitted?

- All off-market statuses (Closed, Expired, Withdrawn, Cancelled).

When do I have to submit a listing to TAR MLS?

- Listings must be submitted to TAR MLS within three (3) business days after the seller's signature have been obtained or on the Start Date.

The Start Date can be any date up to two weeks after a listing agreement is signed. The purpose of the Start Date is to allow the seller and their listing broker time to prepare the listing for marketing. This preparation may include a property inspection, photography, staging, virtual tour production, property enhancement and marketing materials. No marketing of any kind may be done during this period publicly, unless it's an office exclusive listing. If this rule is violated, then the listing has to be entered into the MLS within one day and a penalty of \$5000 will be assessed by the TAR MLS and BOD. A variance can be requested via Email to the Telluride MLS Chair in rare circumstances for an extension of the Start Date.

What if my seller does not want their listing disseminated via TAR MLS?

- If your seller client declines to permit the listing to be disseminated via TAR MLS, then the listing broker may take the listing as an office exclusive listing.

What documentation do I need to submit to TAR MLS for an office exclusive listing?

- Listing contracts for an office exclusive listing must be accompanied by a separate acknowledgment that the seller does not desire their listing to be disseminated via TAR MLS; the acknowledgment form must be signed by the seller, listing broker and managing broker. This form must be submitted to the TAR MLS Director via fax or email within 24 hours of signing.

Is public marketing permitted for an office exclusive listing?

- Properties taken on as an office exclusive basis are **not permitted to be publicly marketed**. If the office exclusive listing is publicly marketed, then the listing must be submitted to the TAR MLS within one (1) calendar day of the public marketing, in accordance with the TAR MLS Clear Cooperation Policy.

How can office exclusive listings be shared or marketed?

- Per TAR MLS Policy, office exclusive listings cannot be publicly marketed.
- However, direct promotion of an office exclusive listing between the listing broker and their affiliated licensees within their listing brokerage is not considered public marketing. Additionally, the listing broker and their affiliated licensees can share office exclusive listing information through one-to-one communication with their clients.

Can an office exclusive listing be shared to a select group of brokers outside the listing broker's office?

- Sharing listings with private listing networks or multi-brokerage networks that include more brokers or licensees than those affiliated with the listing brokerage constitutes public marketing. If a listing is shared in a private listing network or multi-brokerage network then the listing must be submitted to the TAR MLS within one (1) calendar day of the public marketing, in accordance with the TAR MLS Clear Cooperation Policy.

What happens if I violate the Clear Cooperation Policy?

- TAR MLS will assess fines for violation of the TAR MLS Clear Cooperation Policy on a tiered basis. This first offense will result in a warning letter and two (2) calendar days to cure the violation. Second offenses will result in a \$500 fine and two (2) calendar days to cure the violation. Third offenses will result in a \$2,500 fine and a 30-day suspension from the TAR MLS. An offense will be determined by the TAR MLS Committee or if necessary by the TAR BOD.

Why did TAR MLS implement this policy?

- The Clear Cooperation Policy is a mandatory policy from the National Association of REALTORS® (NAR).

Where can I find additional information on NAR's MLS Clear Cooperation Policy and its background?

- You can read more details about NAR's MLS Clear Cooperation Policy here: <https://www.nar.realtor/about-nar/policies/mls-clear-cooperation-policy>



SELLER ACKNOWLEDGEMENT WAIVER OF MLS BENEFITS* OR IDX/VOW AND SYNDICATION OPT OUT. Confidentiality NOTICE & CP-44 REMINDER.

Addendum to Listing Agreement for Property located at: _____ (Address)

NOTICE: Signing this document authorizes your REALTOR to withhold the sharing of information from other real estate professionals that are members of the MLS which will default to an *Office Exclusive Listing.

The Telluride Association of REALTORS® wants you to understand that cooperation between real estate brokers maximizes market exposure to potential buyers for your property. Exposure through the MLS system and IDX/VOW/Syndication is very likely in your best interest and it is important that you make an informed decision. *Office Exclusive is defined as a property that the seller requests is withheld from the MLS and no cooperation is offered and is not disseminated to other MLS participants or Syndication. Common examples include significant confidentiality concerns. It allows the listing broker to market a property among the brokers and licensees affiliated with the listing brokerage. However, if office exclusive listings are displayed or advertised to the general public, those listings must be submitted to the MLS for cooperation within 1 (one) business day.

Please consider these points:

Option I –MLS Benefits choosing to waive, explained #1 - 5 and possible shortfalls of signing an Office Exclusive #6 - 8:

1. The Telluride Multiple Listing Service is believed to be a most effective method of achieving the quickest sale and highest price for your property.
2. Buyers benefit from and appreciate the MLS system too. The system allows buyers to select agents of their choice and see all the properties that fit their needs regardless of which company listed the property. Without the MLS system, a buyer working exclusively with one agent may never know your property is on the market.
3. Once your property is entered into the MLS it will receive exposure on the Internet at your directive. Each day more and more buyers search the Internet to locate property.
4. Your property listing can immediately be included in MLS automatic Email notification alerts to members and potential buyers.
5. In the San Miguel County area hundreds of millions of dollars in successful real estate transactions are closed via the MLS system each year. For sellers, the top sale price is more likely when cooperation is made available through the MLS system.
6. Because of the limited exposure of your property information, you may not receive the highest and best offer for your property with an Office Listing.
7. While the property is withheld from the MLS there can be no public marketing of the property to prospective buyers. Public Marketing includes but is not limited to: flyers displayed in windows, digital marketing on public facing websites and social media, brokerage website displays (including IDX and VOW) digital communications marketing (email blasts), multi-brokerage listing sharing networks, multi-brokerage or public open houses, applications available to the general public and placement of a "For Sale" sign on the listed property. If public marketing by any of the above examples is done the property must be entered as active in the MLS within 1 (one) business day. _____ / _____ Seller(s) Initials.
8. Fair Housing Disclosures (See Appendix A, Page 2): Reviewed and discussed. _____ / _____ Seller(s) Initials.

Option II –IDX/VOW and Syndication Opt-Out:

IDX (Internet Data Exchange), VOW (Virtual Office Websites) & Syndication (Data that is published or made available for use by a third party to advertise a broker’s listings on non-MLS websites) to REALTOR.com - Seller Opt Out. See Description below.

- A. IDX & REALTOR.com: Seller Directs Listing to be Excluded from Internet & Address excluded. _____ / _____ Seller(s) Initials.

B. VOWS: Seller Directs Listing to Not Be Used in AVMS (Automated Valuation Models) on Internet & Not Allow Comments on Internet. _____ / _____ *Seller(s) Initials.*

✚ **“Appendix A – Fair Housing Disclosures”**

1) Protection Under the Federal Fair Housing Act

The seven classes protected under the Federal Fair Housing Act are:

- Color
- Disability
- Familial status (i.e., having children under 18 in a household, including pregnant women)
- National origin
- Race
- Religion
- Sex

2) Additional protected classes under the Civil Rights within the Town of Telluride

Telluride Municipal Code defines discrimination as any act that results in the unequal treatment or separation of any person or that denies, prevents, limits or otherwise adversely affects the benefit or enjoyment by any person of employment, ownership or occupancy of real property, public services or accommodations. Telluride Municipal Code prohibits discrimination based on a person’s race; color; creed; religion; ancestry; national origin; gender or sexual orientation, and further prohibits discrimination on the basis of pregnancy or childbirth, age, marital status, familial responsibility; military status; political affiliation; or physical or mental disabilities that would not constitute a direct threat to the housing or the safety of others.

3) Potential Federal Fines and penalties

The maximum civil penalties are: \$16,000 for a first violation of the Act; \$37,500 if a previous violation has occurred within the preceding five-year period; and \$65,000 if two or more previous violations have occurred within the preceding seven-year period.

Owner Signature _____ Date: _____

Owner Signature _____ Date: _____

Broker Signature _____ Date: _____

Office: _____

List Date: _____ Expiration Date: _____

✚ **CONFIDENTIALITY NOTICE:** Even when we publicly market your property, we keep your confidential information confidential. By law, the following is some of the information that is confidential between a listing broker and a seller:

- Your willingness to accept less than the asking price;
- Your motivation for selling;
- Facts or suspicions which may psychologically impact or stigmatize a property.

✦ Real Estate Commission issues reminder of CP-44 - Coming Soon Listings:

CP-44 Commission Position on Coming Soon Listings (Adopted June 3, 2014)

The Commission has received inquiries and complaints regarding real estate brokers (“brokers”) who advertise properties as “coming soon” to the market. The common complaint the Commission receives about “coming soon” listings is that the listing broker provides limited exposure of the property on the open market in an effort to broker both sides of the transaction, or “double end the deal”. Many of the complaints that the Commission receives indicate that once the property is entered into a multiple listing service, becomes available for showings or is otherwise given full market exposure, the listing broker notifies any parties interested that the property is already under contract. While the Commission cannot impose limitations on how a property is marketed for sale or lease, a broker must comply with the license law.

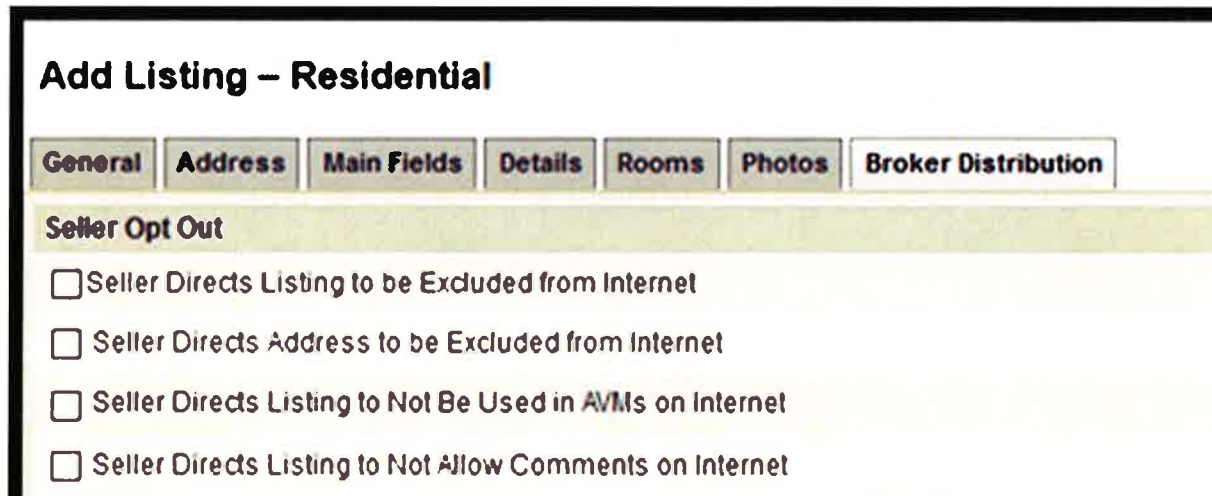
Among other duties, §12-61-804(1), C.R.S. requires a broker acting as a single agent engaged by a seller or a landlord, to “exercise reasonable skill and care for the seller or landlord” and “promote the interests of the seller or landlord with the utmost good faith, loyalty, and fidelity”. A broker who acts as a transaction broker for the seller or landlord is also required to “exercise reasonable skill and care”, among the other responsibilities and obligations enumerated in §12-61-807, C.R.S.

During the negotiation of the listing contract, and as part of the broker’s obligation to exercise reasonable skill and care, a broker is responsible for advising the seller or landlord “of any material benefits or risks of a transaction which are actually known by the broker”. This includes limiting a property’s market exposure by delaying access for showings or open houses, or limiting the amount of time that the seller or landlord will consider offers. Motivation for limiting exposure of the property should be carefully considered. Is the property being marketed as “coming soon” because the seller is preparing it for sale or lease? This would be a legitimate use of that particular marketing method. However, if the property is being marketed as “coming soon” in an effort for the listing broker to acquire a buyer and “double end” the transaction, this would be a violation of the license law because the broker is not exercising reasonable skill and care. If the broker is a single agent for the seller or landlord, the broker may be viewed by the Commission as also failing to promote the interests of the seller or landlord with the utmost good faith, loyalty and fidelity. Finally, a broker who places the importance of his commission above his duties, responsibilities or obligations to the consumer who has engaged him is practicing business in a manner that endangers the interest of the public.

Ultimately, it is the seller or landlord’s decision how, when and where the property will be marketed. A broker who fails to advise a seller or landlord of the material benefits or risks, or does not allow the seller or landlord to decide how the property will be marketed, may be subject to license discipline by the Commission. The manner in which the broker and seller or landlord agree to market the property must be memorialized in writing in the listing contract prior to any marketing being performed.

Seller Opt Outs on FLEXMLS Explained

The Broker Distribution tab of the Add Listing page displays listing distribution options as defined by your MLS. I see you have the following distribution options to select and will explain each of the corresponding boxes below.



Add Listing – Residential

General Address Main Fields Details Rooms Photos **Broker Distribution**

Seller Opt Out

- Seller Directs Listing to be Excluded from Internet
- Seller Directs Address to be Excluded from Internet
- Seller Directs Listing to Not Be Used in AVMs on Internet
- Seller Directs Listing to Not Allow Comments on Internet

The first options are seller opt-out options. If the seller requests that the listing be excluded from the internet, select **Seller Directs Listing to be Excluded from Internet**. The seller can also request that the address of the listing be excluded from the internet. These selections govern all internet sites, including [Realtor.com](https://www.realtor.com) and IDX sites. The system will prevent you from making contradictory choices in the other checkboxes on the page.

The setting *Seller Directs Listing to Not Be Used in AVMs on Internet* refers to automated valuation models on virtual office websites (VOWs). The option *Seller Directs Listing to Not Allow Comments on Internet* also refers to VOWs only. For more information about VOWs, refer to the [realtor.org](https://www.realtor.org) website.

Hopefully this helps, do let FLEXMLS support know if you any follow up questions!