

NATIONAL ASSOCIATION OF REALTORS®

500 New Jersey Ave NW
Washington, DC 20001

ATTN: MLS TECHNOLOGY AND EMERGING ISSUES ADVISORY BOARD

Chairman Greg Zadel – greg@zadelrealty.com
Staff Executive Rodney Gansho – rgansho@nar.realtor
NAR President Charlie Oppler – charles.oppler@sothebysrealty.com

October 27, 2021

Via E-mail

Re: Listing Broker Attribution

Dear Mr. Zadel,

I am writing to propose modifications to #6 of the MLSTEIAB's September list of recommended policy changes to be forwarded to the MLS Committee (referenced here as the "Realogy Proposal").

We applaud the MLSTEIAB's desire to revise listing attribution rules. Historically, Zillow went beyond IDX rules, providing listing-side attribution for more than 10 years, including listing agent name and contact information, and listing brokerage name and contact information.

Therefore, our concerns are not related to listing agent or brokerage attribution, which we support, but rather to the drafting of the Realogy Proposal.

The language in the Realogy Proposal is ambiguous, which would make it difficult for small and large brokerages alike to know whether they were in compliance.

The Realogy Proposal is also distinctly anti-consumer. The new requirements it creates could easily steer buyers toward dual agency, without their understanding that listing agents have a fiduciary obligation to their sellers, and such steering is contrary to the spirit of "cooperation" that is the foundation of MLS.

More specifically, the Realogy Proposal as-written is ambiguous in the following ways:

1. "Contact information" needs to be clearly defined, based on RESO standards and fields available in the MLS. Does "contact information" mean "agent phone number," "agent email address," "agent website," or something else? If "contact information" is left undefined, any field or data type could be required in any market, making cross-market standardization impossible. We recommend that the MLS Committee define contact information as phone number and email address instead, which clearly connect to established RESO fields.

2. Prominent attribution already exists in the current IDX policy with “*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.*” Attribution based on “*any other contact information or lead form,*” as Realogy proposes, creates duplicate/conflicting standards, and is either problematic or impossible to comply with on many IDX sites. If a brokerage has a prominent 800- number at the top of its site (e.g., https://www.weichert.com/NJ/Morris/Morris_Plains/) must listing agent / brokerage information “contact information” (however that’s defined) also appear at the top of the site in a similar font size?
3. Any attribution policy should be standardized and mandated. Local MLS interpretation could lead to costly, laborious, and conflicting implementation issues for brokerages, vendors, and REALTORS® across the country. MLSs have experience performing compliance reviews with the current policy language around prominence (point #2 above) and a contact method that connects to a RESO field (i.e. “listing firm”). Leveraging the existing policy standards in any updated language will avoid significant, and ongoing costs from a vague requirement.

Additionally, the proposed language subtly steers buyers toward dual agency, suggesting that the listing agent is best suited to answer a buyer’s questions while at the same time, not requiring disclosure that the listing agent has a fiduciary responsibility to the seller. The IDX brokerage (when not the listing brokerage), can act as an advocate for the buyer and can easily access all necessary property information. This, in fact, is the philosophy behind MLS and IDX. The MLS listing should already be the source of truth for property information unless the listing agent is intentionally withholding material information from their listing or violating their fiduciary responsibility to their seller.

We propose the policy changes below to advocate for consumers and encourage competition within the real estate industry:

V. LISTING BROKER ATTRIBUTION

Recommendation #6: That the IDX and VOW policies be amended as follows:

(Highlights with underline indicate suggested changes; 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 agent and firm and email or phone numbers for each ~~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 **agent and firm and email or phone number for each** ~~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.~~*

We have seen NAR's success in handling complex issues in an ever-changing real estate and REALTOR® landscape. We ask that this policy change is addressed expeditiously and with the consumer's housing journey in mind.

We appreciate your consideration of this request.

Sincerely,

Errol Samuelson

Chief Industry Development Officer

Zillow Group