



REALTOR® Cooperation Policy

Frequently Asked Questions

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What is a REALTOR® Cooperation Policy?

REALTOR® Cooperation is a key component of organized real estate and central to the value of MLS® Systems as cooperative selling systems. REALTORS® can and should be using MLS® Systems to market properties on behalf of clients as part of any strategy to publicly market a home. Efficient and effective cooperation through MLS® Systems maximizes opportunities for REALTORS® to bring together home buyers and sellers, promotes the value of REALTORS® as trusted real estate professionals, directly benefits REALTORS® and better serves their clients while also strengthening the REALTOR® and MLS® brands. On January 3, 2024, the new Duty to Cooperate under the REALTOR® Code comes into force, with additional details set out in a REALTOR® Cooperation Policy. The core of the policy is that where public marketing of a property occurs, REALTORS® are required to place their listings on an MLS® System within the timeframe adopted by their board/association, which may be up to a maximum of three (3) days, unless an exemption applies.

Why a REALTOR® Cooperation Policy?

The policy was intended to address the increased use of limited exposure marketing practices which can result in the withholding of listings from MLS® Systems, contrary to the purpose of membership in a cooperative selling system, and diminishing the efficiency, value and benefits that MLS® Systems provide to REALTORS® and home buyers and sellers. Examples include “coming soon to an MLS® System” advertising which can be misused to market and sell a property without any real intention of placing it on an MLS® System, or marketing within a private social media group to a narrow group of REALTORS® or consumers which would prevent other REALTORS® from having the opportunity to cooperate on a transaction and their clients from having access to comprehensive property information on MLS® Systems during the home buying and selling process.

What are the key elements of a REALTOR® Cooperation Policy?

The key elements of the policy can be summarized as follows:

Basic Rule: Where public marketing of a listing occurs, the listing must be placed on an MLS® System within the timeframe adopted by the board/association, which may be up to a maximum of three (3) days, unless an exemption applies.

Public Marketing: Means any marketing to the public or anyone not directly affiliated with the listing brokerage/office, excluding one-to-one direct communication.

One-to-One Direct Communication: Means the marketing of a property by the listing REALTOR® directly to REALTORS® from other brokerages/offices on a one-to-one basis, and is not considered public marketing under the policy. Note marketing on a one-to-many basis, involving access to a listing by more than one recipient (for example via an email blast or private social media group) will trigger the basic rule.

Disclosure and Consent Requirements: REALTORS® must inform their seller clients of the benefits of marketing their listing on an MLS® System. If a seller decides to forego this option, the decision must be confirmed in writing to the REALTOR®, acknowledging they are declining the benefits of placing their listing on an MLS® System.

Why is REALTOR® Cooperation being added to the REALTOR® Code?

While CREA's Board of Directors has the authority to create policies, including the REALTOR® Cooperation Policy, some boards and associations asked for a vote on REALTOR® Cooperation at CREA's 2023 AGM, and suggested that REALTOR® Cooperation should be part of the REALTOR® Code. An amendment to the REALTOR® Code requires a vote of the membership, so the proposal to add a new article directly incorporating a Duty to Cooperate into the REALTOR® Code addressed both requests. It also provides a clear line of authority under the REALTOR® Code for boards and associations to make any necessary changes to their rules to ensure consistency with the Code and policy, and to enforce REALTOR® Cooperation under their existing REALTOR® Code enforcement procedures. Adding a clear ethical obligation to cooperate into the REALTOR® Code complements existing obligations such as the commitment of REALTORS® to "cooperation with and fairness to all" and their Primary Duty to the client under Article 3. The new Article 30 (Duty of Cooperation) was approved by voting delegates at the CREA 2023 AGM.

Are all REALTORS® required to comply?

Yes, all REALTORS® are required to comply with the new REALTOR® Code provision and the accompanying policy through their membership in local boards and associations.

Who was consulted on REALTOR® Cooperation?

A REALTOR® Cooperation Working Group was formed in February 2021, composed of Executive Officers representing 15 boards and associations from across the country, to review concerns expressed by industry stakeholders on the increasing prevalence of limited exposure marketing practices and its impact on cooperation. The Working Group consulted a wide variety of industry stakeholders on these concerns and what the key elements of a solution may look like through meetings, information sessions and surveys. Industry stakeholders consulted across the country included Association Executives, board/association leadership, REALTOR® members, franchisors, and CREA committees.

Details include:

- Multiple townhall information sessions for board/association leadership.
- Discussion and Q & A at CREA's 2022 Open Forum.
- Discussion at the AE Seminar.
- Six (6) regional consultation meetings in 2022.
- Membership survey conducted on this topic in November 2021.
- Meetings with CREA's Broker and AE Committees.
- Meeting with Fanchisor Groups.

How does placing a listing on an MLS® System benefit REALTORS® and their clients?

MLS® Systems facilitate increased exposure of listings to a broad group of REALTORS® and their clients, benefitting both sellers and buyers. From a seller's perspective, a listing with exposure on an MLS® System may increase the number of offers received and improve their chances of receiving the most competitive offers for their home. From a buyer's perspective, they benefit when their REALTORS® have access to a more complete inventory of homes for sale that may meet their needs.

From a REALTORS® perspective, efficient and effective cooperation through MLS® Systems maximizes opportunities for REALTORS® to bring together home buyers and sellers.

Has a similar policy been implemented in other jurisdictions?

Yes, the National Association of REALTORS® in the U.S. adopted a Clear Cooperation Policy requiring listings to be submitted to MLS® Systems for cooperation within one (1) business day of public marketing.

Does REALTOR® Cooperation change board/association rules?

Check with your board or association and consult your MLS® System rules for any changes related to REALTOR® Cooperation.

How will REALTOR® Cooperation interact with local board/association rules that provide a timeframe for placing a property listing on their MLS® System?

The policy creates a minimum standard for all boards/associations and as such, the timeframe for placing a listing on a local board/association MLS® System cannot be longer than the three (3) day period set out in the policy. However, boards and associations may adopt more stringent rules and timelines as long as such rules do not contravene the policy. Check with your board or association for any changes made to existing rules.

Policy Interpretation

Are listing agreements signed before January 3, 2024 subject to the REALTOR® Cooperation Policy?

The REALTOR® Cooperation Policy comes into force on January 3, 2024, and will apply to any listing agreement signed on or after January 3, 2024. For agreements signed before January 3 but which are still ongoing as of that date, boards and associations may exercise their own discretion as to whether and under what circumstances Article 30 (Duty of Cooperation) of the REALTOR® Code and the REALTOR® Cooperation Policy may apply.

What is considered “Public Marketing”?

Public marketing means the representation or marketing of a listing to the public and/or any REALTOR® not directly affiliated with the listing brokerage/office in a business capacity. For example, marketing via flyers, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW) and onsite brokerage promotion, digital

communications marketing (i.e., email blasts, newsletters, social media posts), multi-brokerage listing sharing networks, and applications available to the general public. Public marketing does not include one-to-one direct communication between the listing REALTOR® and a REALTOR® from another brokerage/office. In other words, “one-to-one” marketing does not trigger the policy, but “one-to-many” marketing will trigger the policy. For example, if a REALTOR® from brokerage A shares their listing directly with a REALTOR® from brokerage B who may have a potential buyer client by a “one-to-one direct communication”, this would not be “Public Marketing” under the policy. However, if a REALTOR® from brokerage A shares the listing on a private social media group that includes REALTORS® who are not from the listing brokerage’s office, this would be considered “Public Marketing” and would trigger the requirement to place the listing on an MLS® System within the timeframe adopted by their board/association.

Communications between a listing REALTOR® and REALTORS® within the same brokerage is not considered public marketing. Does this include REALTORS® in branch offices of their brokerage?

Yes, where a brokerage has branch offices under the same broker of record, communications between a listing REALTOR® and REALTORS® in those branch offices would generally not be considered public marketing. Communications to REALTORS® in any other office with a different broker of record, whether completely unaffiliated or affiliated in some other way (e.g., two brokerages operating under the same franchise banner), would be considered public marketing unless it is a one-to-one direct communication.

One-to-one direct communication between a listing REALTOR® and a REALTOR® from another brokerage/office (the receiving REALTOR®) is not considered public marketing. What about one-to-one direct communication between a listing REALTOR® and a potential buyer, or between the receiving REALTOR® and their client or other REALTORS®?

One-to-one direct communication on an individual basis between a listing REALTOR® and a potential buyer is not considered public marketing. Similarly, one-to-one direct communication on an individual basis between the receiving REALTOR® and their potential buyer is not considered public marketing. Receiving REALTORS® should not be forwarding the listing on to other REALTORS®. Only the listing REALTOR® should be making one-to-one direct communications with REALTORS® from another brokerage/office.

It is important to keep in mind that if a listing becomes publicly marketed at any point, then it must be placed on a board/association MLS® System.

Is a property listing on a Virtual Office Website (“VOW”) considered “public marketing”?

Yes. A “VOW” is a password-protected virtual office website through which brokerages can provide digital trading services and where, among other things, consumers can access and search listings typically sourced from an MLS® System. Although password protected, VOWs provide consumers with access to listings and would not be considered as “one-to-one” direct communication. Any listing on a VOW that is already sourced from an MLS® System would not trigger the listing requirements under the policy since that listing is already on an MLS® System. However, if a REALTOR® represents a seller and the seller’s listing is not already on an MLS® System but is placed on a website, including a VOW, then it would be considered public marketing and subject to the policy requirements.

Does the policy apply if an unrepresented seller only wants a website, including a VOW, to advertise their home for sale?

No, the policy would not apply if a seller is not represented by a REALTOR® and the only service they want is to have their property advertised on a website. The policy only applies where REALTORS® are representing sellers.

Does this policy apply to listings advertised to a group of REALTORS® (e.g., private listing networks, social media groups) who are not part of the listing brokerage office?

Yes, if a listing is advertised to a group of REALTORS®, and the communication was not done on a direct one-to-one basis between two REALTORS®, the advertising is considered public marketing and the policy requirements apply. For example, if a REALTOR® is part of a social media group or email list with 10 other REALTORS® from different brokerage offices, and a listing is advertised to this social media group or sent to more than one REALTOR® on the email list, it would be considered public marketing and subject to the policy requirements.

Is advertising a property listing at a real estate show (e.g., cottage show) considered “public marketing”?

Yes. Advertising listing information (e.g., photos, address, street name, property details, etc.) for specific properties visible in a public place like a real estate show is considered public marketing and would trigger the policy. However, if the advertising does not include any listing information for specific properties and instead invites other REALTORS® or attendees to have a one-on-one conversation with the listing REALTOR®, who may provide listing information for specific properties directly during the one-on-one conversation, this would not be considered public marketing (e.g., a map showing general property locations).

Does a “day” mean a business day and when would the timeframe to place a listing on an MLS® System start?

No, the term “day” in the policy does not mean a business day, but rather all days of the week, including weekends and holidays. The timeframe begins to run as soon as a property has first been publicly marketed, keeping in mind the definition of public marketing in the policy. For example, if a board has adopted the maximum three (3) day timeframe and the listing is first publicly marketed on a Monday, the listing must be placed on the board’s MLS® System for cooperation by end of day on Thursday.

Does REALTOR® Cooperation ban exclusive listing contracts?

No, the policy does not impact the ability for REALTORS® to exclusively represent a buyer or seller in a transaction. Exclusive listings that are marketed only to REALTORS® within the listing brokerage office do not trigger the policy as this is not considered “public marketing”. However, if the property does become publicly marketed at any point, then it must be placed on a board/association MLS® System.

Does the policy apply to non-active property listings (e.g., “Coming Soon” listings)?

Yes, the policy applies to all listings that are publicly marketed, whether they are active when public marketing begins or not. REALTORS® must place all listings on their board/association’s MLS® System within the required timeframe once public marketing begins.

What happens if public marketing occurs where the seller has instructed otherwise?

If any public marketing of a listing occurs, the policy requirements will apply, and the listing must be placed on the board/association MLS® System within the timeframe adopted by the board/association after public marketing began. This applies even where the seller has instructed otherwise, or following initial one-to-one direct communication with another REALTOR® once public marketing has occurred.

What are the disclosure requirements?

REALTORS® must disclose the benefits of listing a property on an MLS® System to their seller clients in writing, and must include, at a minimum, that MLS® Systems:

- Provide greater exposure to more potential buyers;
- May result in more offers received; and
- May result in better offers, in terms of price and other terms and conditions of sale.

When do the disclosure requirements need to be provided to the seller?

REALTORS® must provide the disclosure requirements to the seller in writing prior to the start of any marketing of the property. It is recommended that this disclosure happen early, such as at the time of entering into a listing contract.

Are there any additional requirements if a seller decides they do not want to place their listing on an MLS® System? What do I need to do if a seller decides to forego placing their listing on an MLS® System?

Yes, if a seller decides they do not want to use an MLS® System to market their listing, REALTORS® must receive written confirmation of this decision. The policy provides that this written confirmation from the seller must include a clear instruction not to engage in public marketing of their property, and an acknowledgement that declining to place their property on an MLS® System may:

- result in reduced exposure to the pool of potential buyers;
- result in a lower number of offers received; and
- limit the seller's ability to receive the most favorable offers in terms of price or other terms and conditions of sale.

REALTOR® Cooperation Exemptions

Does the policy apply to all property and transaction types?

The policy is focused on residential properties and provides exemptions for certain other property types. The exemptions include commercial listings (i.e., business properties, agricultural properties), new construction listings with multiple properties or units (i.e., residential development projects, condo development projects), and rental property listings. While the policy provides minimum standards to be adopted by boards/associations, they may adopt more stringent rules than those set out in the policy to deal with local issues and may remove or limit exemptions for certain property and transaction types provided under the Policy.

Why are commercial listings exempt from the policy?

Commercial listings (i.e., business properties, agricultural properties) are exempt from the policy because commercial transactions are substantially different than residential transactions and overall represent a small percentage of all real estate transactions. However, as the policy provides for local discretion, boards/associations may elect to adopt more stringent rules and eliminate the exemption for commercial listings. REALTORS® and their clients are always encouraged to place their commercial listings on their local board/association's MLS® System.

What is considered a commercial property?

A property is generally considered commercial if it contains four or more self-contained dwelling units and is used or intended to be used for the purpose of generating income.

Why are new construction listings in developments with multiple properties or units exempt from the policy?

New construction listings in developments with multiple properties or units (i.e., residential development projects, condo development projects) are traditionally controlled by builders. REALTORS® working with and representing builders require flexibility in these relationships to act in the best interest of their client and the policy is not designed to affect these relationships. However, as the policy provides for local discretion, boards/associations may elect to adopt more stringent rules and eliminate the exemption for this property type. REALTORS® and their builder clients are encouraged to place their new development listings on their local board/association's MLS® System.

New construction listings in developments with multiple properties or units are exempt from the policy. Are assignments of such properties also exempt from the policy?

Yes. Any assignments will be exempt if they occur prior to the transfer of title. After title to the property or unit has been transferred to a buyer, any subsequent sale will be subject to the policy. This means a REALTOR® can engage in any form of public marketing for an assignment sale of such a property or unit without triggering the requirement to place the listing on an MLS® System under the policy.

REALTORS® should review any agreement between a developer and their client which may contain provisions regarding the assignment of a property.

Why are rental property listings exempt from this policy?

Rental property listings are exempt from the policy due to the different nature of rental transactions compared to residential sale transactions, and similar to commercial transactions, overall represent a small percentage of all real estate transactions. The focus of the policy is to address cooperation issues which are primarily in the residential re-sale market. However, as the policy provides for local discretion, boards/ associations may adopt more stringent rules and eliminate the exemption for this property type. REALTORS® and their clients are encouraged to place their rental listings on their local board/ association MLS® System

What happens in a scenario where public marketing of a property has begun but it is sold prior to being placed on an MLS® System in accordance with the requirements?

Where a property is sold within this period, it is no longer available for cooperation and REALTORS® will need to consult their local board/association MLS® System rules regarding submitting sold listings to an MLS® System.

Can REALTORS® use “Coming Soon” advertising under the policy?

Yes, “Coming Soon” advertising is public marketing of a property and may be used prior to the listing being placed on the board/association MLS® System within the timeframe provided for in the policy, subject to provincial regulations and board/association rules. Note that REALTORS® using “Coming Soon” advertising that includes the MLS® trademark must comply with the appropriate form and context rules set out in CREA’s Trademark Policy. The MLS® Logo may not be used, the MLS® trademark must be displayed in all capital letters followed by the registered trademark symbol, a trademark statement should appear with the trademark where possible, and the proper context of use in association with coming soon advertising is “Coming Soon to the [name of board/ association]’s MLS® System”.

Enforcement

How will REALTOR® Cooperation be enforced and who would monitor compliance?

As boards and associations are responsible for enforcing the REALTOR® Code with their members, the new REALTOR® Code amendment would provide them with the authority to enforce REALTOR® Cooperation under their existing REALTOR® Code enforcement procedures. Since the main concern is the public marketing of a property without placing it on an MLS® System, boards and associations are best positioned to monitor member compliance, and it is reasonable to expect members to report issues they may come across.

What are the penalties for non-compliance?

REALTORS® who do not comply with the REALTOR® Code are subject to the penalties established by their board or association.