

MINUTES

CHAIR	Greg Zadel (Firestone, CO)
COMMITTEE LIAISON	Shad Bogany (Bellaire, TX)
STAFF EXECUTIVE	Rodney Gansho (Chicago, IL)

CALL TO ORDER / OPENING REMARKS

The meeting of the MLS Technology and Emerging Issues Advisory Board was called to order at 9:00 a.m. by Advisory Board Chair Greg Zadel.

APPROVAL OF PREVIOUS MEETING MINUTES

The minutes of the August 2020 Advisory Board meeting were approved as written.

TECHNOLOGY

RESO (Real Estate Standards Organization)

Sam DeBord, RESO CEO, shared the latest membership and certification numbers; provided insights into current RESO initiatives like: mandatory IDX payloads, unique IDs, “pre-checks,” etc.; and also answered questions about RETS vs. Web API, and block chain.

RPR and Demo of RPR View

Jeff Young, Chief Operating Officer/General Manager, RPR; and Karen France, Senior Vice President, RPR, explained RPR’s focus over the last couple years to strengthen the relationships with brokerages and REALTOR® Associations. During that time, RPR experienced a 56% growth rate.

RPR assists local MLSs with consolidation efforts. Lauren Hansen, IRES CEO, provided background on the MLS’s decision to use RPR View for its data share agreement in Colorado. Advisory Board members then received a demo of the RPR View platform.

Information was shared about RPR’s expanded access in public records, and its integration with Showing Time.

* Due to concerns over the Coronavirus Disease (COVID-19), NAR suspended all staff and volunteer member travel, resulting in the Advisory Board meeting being conducted electronically.

EMERGING ISSUES

Venture Capitalists (CVs): *Where's the money being invested in real estate?*

Dave Garland, Vice President, Second Century Ventures (SCV) and Reach, started his comments by providing Advisory Board members background highlighting SCV's success and philosophy, including the REACH accelerator's expansion into commercial and other markets.

Dave shared insights into VC spending in real estate from PropTech, HealthTech, FinTech, EdTech, and more. VCs are looking deep into the transaction to build business solutions, Their interest include obtaining additional rounds of capital. Investments are coming from across the globe. Hotspots for PropTech are California, U.S east coast, western Europe (UK), and metropolitan areas of Asia (Delhi, Shanghai, Beijing, Seoul, and Singapore).

Northwest MLS Rules Change

The Northwest MLS amended its rules last fall to adopt two changes. Tom Hurdlebrink, President and CEO, updated the group on the effects of those changes to date, including wide spread participation in displaying cooperative compensation on brokerage websites, and few listings in the MLS without offers of cooperative compensation.

Legal Update

Katie Johnson, General Counsel and Chief Experience Officer, discussed the NAR class action lawsuits.

POLICY

Clear Cooperation Policy

Interpretation and Application

- Liberty Board of REALTORS®, NJ

The Advisory Board received information about a claim that NAR's Clear Cooperation Policy conflicts with the New Jersey Administrative Code. The MLS involved is the Hudson Country Multiple Listing Service. This is an independent MLS not affiliated with the NAR and not obligated to adopt NAR MLS policy. Another independent MLS in New Jersey, Garden State MLS, has also declined to adopt the NAR Clear Cooperation Policy.

NAR's position is that the Clear Cooperation Policy does not conflict with New Jersey's Administrative Code.

- Freddie Mac and Fannie Mae

The Advisory Board reviewed concerns expressed with the Clear Cooperation policy and its application with Freddie Mac and Fannie Mae REO properties. These properties are listed with Green River Capital LLC (GRC) and stipulate that each property must first be placed on auction websites, Homepath.com and HomeSteps.com., prior to submission to the local MLS. It is unclear if the broker's agreement with GRC is subject to mandatory filing with the MLS. There is also discretion at the local

level on whether auction listings are subject to an exclusive listing contract that requires mandatory submission. Information about MLS policy will be shared with the GRC to help in understanding local filing requirements and the application of the Clear Cooperation Policy.

- The Agency, Beverly Hills, CA
The group considered a request to establish a waiver of the Clear Cooperation Policy for top tier, high-end properties, priced at 10's or 100's of millions of dollars. No action was taken.
- Austin Board of REALTORS®
The group received information from the Austin Board of Realtors. That discussion was deferred to the Advisory Board Hub Community for further consideration.
- Committee feedback
The Advisory Board reviewed issues expressed by the members of Multiple Listing Issues and Policies Committee posted to the Committee's HUB Community. No action was taken.
- Other questions and concerns:
 - After a thorough discussion, the Advisory Board decided to not postpone the implementation date for Clear Cooperation because of the COVID19 pandemic. The deadline remains May 1, 2020. The group also expressed concerns that some MLSs may have challenges implementing the policy under state lockdown requirements, and asked that those concerns be shared with NAR's Leadership Team.
 - The group agreed that the cut off for "business days" as provided in the policy is 12:00 am midnight, and can be changed to 5pm at local discretion to coincide with MLS office hours.

MLS Policy Statement 7.63 – Office Exclusive Listings

The Advisory Board took no action to revise existing MLS Policy Statement 7.63, Office Exclusive Listings, or Section 1.3, Exempt Listings, from the NAR model MLS Rules and Regulations.

It was the consensus of the group that "office exclusive listings" could be used to address client privacy concerns and allow the listing broker to share listing information within the office(s) of the listing brokerage. Misuse of office exclusive listings and not acting in the client's best interest can lead to charges that the broker violated the NAR Code of Ethics, or the fiduciary duties established under state license law. The group further determined that acceptable promotion by the listing broker that would not trigger Clear Cooperation includes one on one communication with the firm's clients and customers, but can also be limited to clients only at local MLS discretion. Appropriate local policy must be adopted.

CMLS Proposal about accessibility to listing broker data feeds

Recommendation:

Moved, seconded and carried:

Motion: That a new MLS policy statement establish the right of Participants to receive a data feed of their own listing information, which reads:

A Multiple Listing Service must, upon request, promptly provide an MLS participant (or their designee) a data feed containing, at minimum, all active MLS listing data input into the MLS by or on behalf of the participant and all of the broker's off-market historical data for the previous (3) three years. The delivery charges for the broker's data shall not exceed the actual costs incurred by the MLS. The data feed must be in compliance with the RESO Standards as provided for in MLS Policy Statement 7.90.

Note: MLSs will not limit the use of the broker's data or the broker's designee.

UPDATES:

CMLS

Representatives from NAR and CMLS recently met in Los Angeles, CA to discuss opportunities to collaborate and enhance communications between the two organizations. These initiatives will continue throughout 2020.

MLS PAG

Rene Galicia, MLS Director of Engagement, shared the steps being taken to implement the PAG's recommendations including the addition of new video testimonials as part of the MLS consolidation resources on nar.realtor; and a proposal for MLS consolidation grants which are being considered by the NAR Finance Committee during the virtual Legislative Meeting in May.

MLS Standards Work Group

Jon Coile, Co-chair for the Work Group provided an update of the work taken place by the group to date, and the anticipated in person meeting this summer.

GENERAL DISCUSSION

Industry News

Comments were made about the changing business practices under the COVID19 pandemic and how MLSs will need to adjust existing local MLS rules to better accommodate the needs of the brokerage community. Special consideration is needed to enable virtual tours and open houses, establish guidance on the impact of Days on Market (DOM), and overall provide advice and information to local brokers and licensees about market conditions, best practices, and available resources.

NAR's Strategic Priorities

The group reviewed NAR's strategic priorities and their impact on the work of the MLS Technology and Emerging Issues Advisory Board and the Multiple Listing Issues and Policies Committee.

FROM THE PREVIOUS MEETINGS

Information was shared from the New York Department of State about recent legislation (NY RPL & 238-a(1)(a)) prohibiting a landlord from collecting a "brokerage fee" from a prospective tenant. At the last Advisory Board meeting, the New York MLS asked that consideration be given to allow a "non mandatory" property type or category to address tenant paid compensation. The creation of such a property type or category is no longer possible given this new legislation.

OTHER BUSINESS

Jeremy Green, Specialist, Member Policy, explained the proposed new process to determine compliance with mandatory MLS policies. Building off of the success of the Association Bylaw process for compliance, the MLS process will also include self-certification and submission of pertinent MLS information and details related to policy adoption, and the structure and ownership of the MLS by a REALTOR® association(s). Information about this new process will be shared with the Association Executives Committee and the Multiple Listing Issues and Policies Committee during the virtual Legislative Meetings.

ADJOURNMENT

There being no further business to come before the Advisory Board, the meeting was adjourned at 12:00 p.m. on Wednesday, March 18, 2020.

MEMBERS PRESENT

Cindy Ariosa (Committee Chair)
Tom Berge Jr.
Brad Bjelke

Shadrick Bogany (Liaison)
Art Carter
Jonathan Coile
Matthew Consalvo
Shawn Dauphine
Sam DeBord
Brian Donnellan
Kathy Elson
Bonnie Fitzgerald
Tina Grimes
Rick Harris
David Howe
Rebecca Jensen
Stan Martin
Brad Monroe
Christopher Tausch
Deborah Wey
Greg Zadel

Staff:

Charlie Dawson
Karen France
Rene Galicia
Rodney Gansho
Dave Garland
Jeremy Green
Katie Johnson
Ashley Labanics
Charlie Lee
Diane Mosley
Jeff Young

Guests:

Lauren Hansen
Tom Hurdelbrink