

MLS & Rules Committee

Lawrence Board of REALTORS®

Thursday, December 1, 2022 – 1:00 pm to 2:30 pm

IN-PERSON Meeting

Call to Order

Approve previous meeting minutes:

- Meeting Minutes from 11.17.2022

Report from LMLS Staff

- Paragon Changes & Lawrence MLS Extension will be considered by the Board of Directors at the Dec 7th Board of Directors meeting.
- Waiting for acknowledgement or indemnification language for online display of data after closing.

2022 MLS & RULES COMMITTEE ROSTER

<i>Bailey Stuart, Chairperson</i>	<i>McG</i>
Ashley Taylor	HRE
Cheri Drake	McG
Chris Earl	SRE
Deanna Dibble	DRE
Jill Ballew	SRE
Jennifer Catlin	KWI
Kelly Rodriguez	KWI
Libby Grady	SRE
Lindsay Landis	McG
Michelle Roberts-Freeman	SRE
Mohammad Aldamen	EXP
Nicholas Lerner	McG
Ryan Desch	R+K
Taylor LaRue	McG
Vanessa Schmidt	KWI
Zach Dodson	SRE
Linda Manley, Staff Liaison	LMLS
Rob Hulse, Staff Liaison	LMLS

E Excused

Consider

1. Resume Discussion the LBOR Sales Contract/Forms.
 - a. Multi-Family Rider to Property Disclosure – pages 42-43.
2. Conclude Discussion on Enhanced Photos in the MLS – Sunsets, lighting bursts, or modifications to photos that are not authentic to the property.
 - a. See handout from Stellar MLS & Article by the Kansas Association of REALTORS®.

Code of Ethics – Article 12 Standard of Practice 12-10

REALTORS®' obligation to present a **true picture in their advertising and representations** to the public includes Internet content, **images**, and the URLs and domain names they use, and prohibits REALTORS® from:

- 1) engaging in deceptive or unauthorized framing of real estate brokerage websites; or
- 2) manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result; or
- 3) deceptively using metatags, keywords, or other devices/methods to direct, drive, or divert Internet traffic; or
- 4) presenting content developed by others without either attribution or permission; or
- 5) **otherwise, misleading consumers, including use of misleading images.** (Adopted 1/07, Amended 1/18)

3. Currently the two statuses of Cancelled and Withdrawn are sub statuses of Withdrawn. Consider changing the heading from Withdrawn to Off Market.
Withdrawn – Cancelled to become Off Market – Cancelled
Withdrawn – Withdrawn to become Off Market – Withdrawn

<input type="checkbox"/>	5 - Withdrawn
<input type="checkbox"/>	WDN - Withdrawn
<input type="checkbox"/>	CAN - Cancelled

4. Paragon Suggestions: For those Residential Class listings in which the Ownership Type is Investor, add a field(s) for rental amount. Currently the only place we capture rental rate is in the Multi-Family Class. This would allow for rental amounts in Residential.
5. Discuss DOM (Days on Market) vs DOMLS (Days on MLS)
6. Discuss implementation of new fine policy – discussion from 9/15/2022.

7. Add HERS Rating (Home Energy Rating System) as an MLS Field (Conditional Logic with New Construction). Suggested are 3 fields – HERS Rated Yes/No; HERS Year; HERS Rating (numeric field).
 - a. See CMLS Handouts included in the packet – Quick Start Guide
 - b. Consider Greening the MLS. <https://green.realtor/sites/files/2019-02/2014%20NAR%20Green%20MLS%20Implementation%20Guide.pdf>

This is a big topic and would be best if moved to a work group – or have staff do additional research.

Old/Tabled Business

1. Update from IDX Subcommittee to Establish Definition for “reasonably prominent” in IDX Rules:
 - a. Section 18.2.12: All listings displayed pursuant to IDX shall identify the listing firm 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. (Amended 05/17) M
 - b. Sub-Committee Members: Nicholas Lerner (McG), Cheri Drake (McG), Drew Deck (RN), Tanya Kulaga (HRE), Jill Ballew (SRE), Michelle Roberts-Freeman (SRE), Victoria Perdue (KW), and Lindsay Landis (McG).
2. Discuss Contingency on the Sale/Closing of Buyer’s Property form and Notice to Remove the Contingency for the Sale/Closing of Buyer’s Property.
3. Discuss submittals of a two-unit property on a single lot that is not well described as a duplex. Should a new category be added in multi-family, and should the Residential Class include an area for ancillary dwelling units?
4. Sellers choosing to Record Video and Audio at showings and/or open houses. Best practices shared by Danielle Davey, LBOR Legal Counsel.
5. Readily Available to Show, the NAR, and the Clear Cooperation Policy.
(See Tabled Business #5 – Fair and Equal Access to Property)

*According to NAR – **A listing’s availability to show is not a determining factor for Cooperation under the Clear Cooperation Policy.** Our interpretation of Cooperation has been tied to a listing’s availability to show (albeit in person or virtual at times). However, NAR indicated that Cooperation is established by simply the sharing of information about the listing to all MLS Subscribers and ensuring that the listing agent treats all parties the same, whether no one has access to show (during a pre-list or coming soon timeframe) or everyone has access to show (while Active and Readily Available).*

6. FAIR AND EQUAL ACCESS TO LISTED PROPERTY:

*After considerable discussion about whether the MLS policy should continue to prohibit “No show until...” availability, or whether the Listing Agent should just be held to a standard of fair and equal access, **it was moved and seconded to enforce a \$1,000 fine to a Listing Agent who does not allow fair and equal access to listings in the MLS with a visibility type of “MLS Listing” (all MLS).** Motion Passed on a vote of 7-2.*

*Further, with continued discussion about whether or not a property is, or is not, readily available, **it was moved and seconded to override and modify the existing policy that listed property must be readily available to show (prohibition on “No show until...”)**, by allowing Listing Agents to be more restrictive with a listed property’s showing availability, when the Seller has affirmatively directed the limited showing availability in writing. The threshold that requires a Seller’s approval in writing will occur when a listed property’s availability is reduced to 2/3 (or by 4 hours) in any given day, based upon the 8am-9pm window of opportunity to show. The Seller’s directive in writing will be determined by the Seller/Listing Agent, and will be uploaded into Associated Docs in Paragon, prior*

to the Listing Agent's publishing of the more restrictive availability for showings. The Listing Agent can determine the visibility of the directive in Associated Documents, at the Listing Agent's discretion. Motion Passed.

As a result of the two actions taken above, the Committee discussed what the maximum amount of time that a Seller can direct showings to be withheld should be allowed. After discussion, it was moved and seconded that regardless of the Seller's directive, the maximum amount of time that a listing can be withheld without being available to show is 5 days. Motion Passed.

New Business

Adjourn

MLS & Rules Committee Meeting Minutes

Lawrence Board of REALTORS®

Thursday, November 17, 2022

1:30pm to 3:00pm

The meeting was called to order by Committee Chairperson Bailey Stuart. After review, **it was moved and seconded to approve the previous meeting minutes.**

Motion passed.

LMLS Staff Report:

Paragon Changes and Lawrence MLS Extension to be reviewed by Board of Directors on December 7th.

- Board of Directors action items:
 - o Waiting for attorney comments regarding language for the acknowledgement or indemnification for online display of data after closing.

2022 MLS & RULES

<i>Bailey Stuart, Chairperson</i>	<i>McG</i>	<i>Present</i>
Ashley Taylor	HRE	Present
Cheri Drake	McG	Excused
Chris Earl	SRE	Present
Deanna Dibble	DRE	Absent
Jill Ballew	SRE	Excused
Jennifer Catlin	KWI	Excused
Kelly Rodriguez	KWI	Present
Libby Grady	SRE	Excused
Lindsay Landis	McG	Present
Michelle Roberts-Freeman	SRE	Present
Mohammad Aldamen	EXP	Absent
Nicholas Lerner	McG	Present
Ryan Desch	R+K	Present
Taylor LaRue	McGrew	Absent
Vanessa Schmidt	KWI	Present
Zach Dodson	SRE	Excused
Rob Hulse, Staff Liaison	LBOR	Present
Linda Manley, Staff Liaison	LBOR	Excused

Next, the Committee considered the regular agenda items.

Item #1 regarded a multi-family rider to the property disclosure was intentionally skipped.

Item #2 regarded the calculation of production awards by the LBOR. Currently each side of a transaction is equal to 100% of the sales price as production. If an agent is on both sides of the transaction, that agent will have 200% of the sales price. The LBOR receives the production lists from Brokers, rather than use MLS statistical date. The Committee's discussions included the use of only MLS data to calculate awards, how to deal with the complexity of teams, and whether the LBOR should even provide production awards. Ultimately, **it was moved and seconded to do away with LBOR Production Awards. Motion Passed.**

Item #3 regarded the use of enhanced photos in the MLS. The Committee discussed photo editing, as well as the addition of sunsets, lighting bursts, or modifications to photos that are not authentic to the property. Additionally, a handout from Stellar MLS & an article by the Kansas Association of REALTORS® was included in handouts. Last, Article 12 of the Code of Ethics, Standard of Practice 12-10 is applicable.

Having reached the end of the meeting time, the meeting adjourned. A next meeting date/time was scheduled for Thursday, December 1st, 2022.

MULTIFAMILY PROPERTY CONDITION DISCLOSURE RIDER

SELLER: _____

PROPERTY: _____

NUMBER OF UNITS: _____

1. RENT SCHEDULE (If more than 4 units, attach additional rent schedule):

☐ Check box if additional rent schedule is attached.

Legend: E = Electric, G = Gas, S = Sewer, T = Trash, W = Water

Unit #	Currently leased? (Y/N)	Lease Begin Date (MM/YY)	Lease End Date (MM/YY)	Monthly Rent Amount \$	Is rent current? (Y/N)	Security Deposit Amount \$ (Tenants/Pets)	Utilities Tenant Pays (Check)	Utilities Landlord Pays (Check)
							<input type="checkbox"/> E <input type="checkbox"/> T <input type="checkbox"/> G <input type="checkbox"/> W <input type="checkbox"/> S	<input type="checkbox"/> E <input type="checkbox"/> T <input type="checkbox"/> G <input type="checkbox"/> W <input type="checkbox"/> S
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2. EXPENSE INFORMATION:

- Annual real estate taxes & year.....\$ _____
- Annual hazard insurance.....\$ _____
- Annual snow removal expense.....\$ _____
- Annual lawn mowing, yard maintenance expense.....\$ _____
- Annual landlord-paid utility expenses.....\$ _____

Seller initial/Date: _____

Buyer initial/Date: _____

3. APPLIANCE & MECHANICAL INFORMATION (indicate appliances included within sale & staying at property below. If more than 4 units, attach additional information):

☐

Check box if additional information is attached.

Unit#	Stove	DW	Fridge	Micro-wave	Washer	Dryer	Age of Furn-ace	Age of AC	Age of Water Heater	Window Units? (Y/N) How many?

4. ADDITIONAL INFORMATION:

- Any other leases or contracts for services on the property? Yes: ____ No: ____ If yes, please specify: _____
- Have any tenants given notice they are not renewing an upcoming lease? Yes: ____ No: ____ If yes, please specify which unit(s): _____
- Have any tenants had eviction proceedings begun upon them? Yes: ____ No: ____ If yes, please specify which unit(s): _____

SELLER:

BUYER:

DATE

DATE

DATE

DATE

Seller initial/Date: _____

Seller initial/Date: _____

Buyer initial/Date: _____

Buyer initial/Date: _____

VIRTUALLY STAGED MLS PHOTOS

The Rules of Engagement!



✓ YOU CAN

Add virtual furnishings to attached exterior areas (for example: pool-side lounge chairs and plants or furniture on a deck)

Exterior

⊘ YOU CANNOT

Virtually enhance permanent fixtures like the roof or the front door

Change the paint color

Virtually stage photos of an under-construction home

Virtually landscape

Add scenic views or landmarks

Interior

✓ YOU CAN

Modify or render existing furniture and décor in a room

Add virtual furniture, décor and artwork to an empty room

⊘ YOU CANNOT

Cover-up eyesores like holes in a wall or exposed wiring

Upgrade damaged and/or outdated flooring

Add or enhance scenic views and/or windows that do not currently exist

Make a room appear larger or smaller than what it truly is

Change paint color of the walls

Swap out those dated kitchen countertops for chic granite

All virtually staged listing photos and listings MUST:

1. Have the appropriate watermark provided by Stellar MLS.
2. Have the exact phrase Virtually Staged in the public remarks.

Learn more about how to properly use photos in the MLS at:

stellarmls.com/photorules

Enhanced Pictures:







ENHANCING PHOTOS AND VIRTUAL STAGING: KNOW THE RULES

NOVEMBER 4, 2019 BY [HEATHER GRAY](#)

Article provided by the Tech Helpline

Did you know that enhancing a listing photo could be a violation of your local MLS rules? It could be if you run afoul of your local MLS guidelines. There's another catch: the rules surrounding enhancing photos and using photos are unique to each MLS.

Knowing your local MLS guidelines about listing photos "dos and don'ts" is essential, especially if you are uploading images that use Virtual Staging technology.

What is Virtual Staging? It's a photo editing service that can fill photographs of empty rooms of a home listed for sale by inserting realistic furnishings and flooring into the images. Like standard staging, which uses physical furnishings, Virtual Staging is designed to use advanced technology to help buyers visualize what the home could look like fully furnished.

We already know how staging works. According to the National Association of Realtors, 83 percent of buyers' agents said staging a home made it easier for a buyer to visualize the property as a future home. Since 90 percent of all home shoppers start their buying journey on the web, photos are essential for every listing.

New technology lowers the cost

The main attractiveness of Virtual Staging is the cost. A standard home staging service over the life of the listing may cost as much as \$5,000 or more. Using a leading Virtual Staging service like [BoxBrownie](#), [VHT Studios](#), or [PadStyler](#) can cost about \$30 for each image. For most listings, the investment could be a one-time fee of \$500 or less.

But there are new risks that come with using Virtual Staged photos. Because the photograph has been enhanced, this triggers the rule your MLS may have about the use of rendered photos, or more specifically, Virtual Staging images.

Know your MLS rules

Most MLSs permit the use of Virtual Staged photos, using either a photo with replaced furnishings or an image of an empty room that is then digitally furnished. Stellar MLS, which allows both, created an excellent [visual graphic](#) for its members to understand what is permitted and what is not.

Most MLSs permit the use of Virtual Staged photos, using either a photo with replaced furnishings or an image of an empty room that is then digitally furnished. Stellar MLS, which allows both, created an excellent [visual graphic](#) for its members to understand what is permitted and what is not.

Stellar MLS guidelines are typical among MLSs that permit Virtual. While Stellar allows modifications of “existing furniture and décor in a room” as well as adding “virtual furniture, décor, and artwork to an empty room,” there are some big no-nos.

Stellar MLS warns you can't:

- Cover-up eyesores like holes in a wall or exposed wiring
- Upgrade damaged and/or outdated flooring
- Add or enhance scenic views and/or windows that do not currently exist
- Make a room appear larger or smaller than what it truly is
- Change paint color of the wall
- Swap out those dated kitchen counter tops for chic granite
- Use photos of the exterior of the property that are virtually staged, except for virtual furnishings on attached structures like a deck or pool area

Most importantly, Stellar has created additional, specific rules for Virtual Staging:
All virtually staged listing photos and listings MUST:

- Have the appropriate watermark that Stellar MLS provides
- Bear the exact phrase “Virtually Staged” in the public remarks

The Miami Realtors even provides its members with access to a preferred Virtual Staging vendor, [PadStyler](#), with discounts for its members.

But not all MLSs allow Virtual Staging. For example, the Dallas-Ft. Worth MLS, NTREIS | North Texas Real Estate Information Systems, Inc., prohibits photos that have been “embellished” to listings. Their rules specifically say:

“Only a true current photograph of Listed Property may be placed in the ‘Property Photograph’ section without decorative borders, other embellishments, or any digitally enhanced modifications that would misrepresent the true condition or appearance of the property. Notwithstanding the foregoing, only properties listed as incomplete construction may have a representative photo of the proposed house.”

Other leading MLSs like Chicago-based MRED and the Houston Association of Realtors emphasize accuracy in their guidelines. HAR’s rule about Virtual Listings says:

Digital images shall not contain digitally enhanced modifications that alter or misrepresent the condition or appearance of the listed property’s structure or grounds (e.g. adding a swimming pool or landscaping, changing the color of a wall). Digital images may include the use of virtual staging, which is limited to the addition of furnishings and wall décor that would otherwise be considered personal property and not conveyed in the sale of the property. Participants shall clearly indicate in the Photo Description the image has been virtually staged.

But the biggest challenge with Virtual Staging, agents will admit, is making sure the photos meet buyer's expectations. If home shoppers come to a house based on Virtual Staged photos and instantly react negatively because of mismatched expectations, it doesn't benefit anyone.

Disclosure and accuracy are the keys

The one thing among MLSs that permit Virtual Staging has in common with their guidelines are two things: disclosure and accuracy. The Golden Rule for Virtual Staging may be best expressed in Article 12 of NAR's Code of Ethics. It requires agents and brokers to "present a true picture in their advertising, marketing, and other representations."

If you keep this in mind when enhancing any photo, you are more likely to meet a buyer's expectations and still help accelerate the sale of your listing.

Rob Hulse

From: Chris Earl <chrisearl@stephensre.com>
Sent: Tuesday, September 13, 2022 10:08 AM
To: Rob Hulse; baileystuart@askmcgrew.com
Subject: MLS and Rules Agenda

Hello Rob and Bailey,

I wanted to see about adding a discussion about DOM vs DOMLS . There are multiple moving parts and even the Market Monitor looks at different fields for different reasons. Also, it seems there is inconsistency with how 3rd party sites display that information. There may be a better way but based on my initial research, I don't see a good reason for there to be 2 categories. There may be something in the background that needs to know DOM but when there are Exclusive visibility types the most common practice is to cancel and re-list to clear that DOM number which seems like an extra step. With Listing Date being a field, I also wonder if it would be better for DOMLS to start at the date of input. This would make the market monitor more relevant, currently one has to search back multiple days to catch listings that weren't input on the same day as the "effective date".



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