

# MLS & Rules Committee

Lawrence Board of REALTORS®

Thursday, October 11, 2022 – 1:00 pm to 2:30 pm

IN-PERSON Meeting

## Call to Order

### Approve previous meeting minutes:

- Meeting Minutes from 10.11.2022

### Report from LMLS Staff

- Paragon Changes and Lawrence MLS Extension.
  - 51 Hours - \$10,250
- Board of Directors approved:
  - Fine Notice verbiage that adds \$10 per diem for violations that are not fixed.
  - Changes to the Listing Agreement with new Limited Visibility Language / Broker signature.
  - Approved the need for an acknowledgement or indemnification for online display of data after closing.

## Consider

1. Resume Discussion the LBOR Sales Contract/Forms.
  - a. Review Sales Contract – Pick up at Paragraph 7b.
    - i. MLS Committee Sales Contract working draft – pages 19-28.
    - ii. Heather Brown, McGrew Suggestions – pages 29-30.
    - iii. See SRE Suggested Changes – pages 31-41.
  - b. Multi-Family Rider to Property Disclosure – pages 42-43.
2. Consider a member request to change how LBOR Production Awards are calculated. Currently the LBOR accepts a Broker report with Production Totals. It is recommended that Production Awards be based on data in the MLS rather than what the individual Brokers report.
3. 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

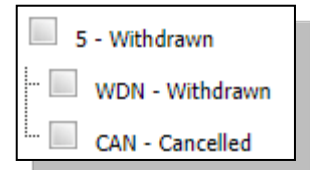
REALTORS®' obligation to present a **true picture in their advertising and representations** to the public includes Internet content, **images**, and the URLs and domain names they use, and prohibits REALTORS® from:

- 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)

### 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    |

4. 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



5. 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.
6. Discuss DOM (Days on Market) vs DOMLS (Days on MLS)
7. Discuss implementation of new fine policy – discussion from 9/15/2022.
8. 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. For Sales Contract –
  - a. Consider adding language on the base contract specifying who pays utilities on leased properties.
  - b. Consider language for Buyer’s Right to Walk-through, outside of Paragraph 7.
2. 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).
3. 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.
4. 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?
5. Sellers choosing to Record Video and Audio at showings and/or open houses. Best practices shared by Danielle Davey, LBOR Legal Counsel.

6. 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).*

**7. 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**

# 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.

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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, NTRIS | 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.