

CREA
THE CANADIAN REAL ESTATE ASSOCIATION

REALTOR® Cooperation Policy

Frequently Asked Questions

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What is a REALTOR® Cooperation Policy

A REALTOR® Cooperation Policy seeks to reinforce one of the key components of organized real estate and the value of MLS® Systems – cooperation. Through this policy, REALTORS® would be required to place their listings on board/association MLS® Systems within a brief time after the property has been first publicly marketed, ensuring all REALTORS® and their clients have equal access to the most comprehensive property information available on MLS® Systems during the home buying and selling process.

Why a REALTOR® Cooperation Policy?

The intent of a policy is to reinforce cooperation among REALTORS® through participation in MLS® Systems, which are member-to-member cooperative marketplaces which benefit REALTORS® and their clients, namely Canadians who are buying or selling a home. Effective and efficient cooperation among REALTORS® increases the level of professionalism of REALTORS®, better serves the needs of Canadian consumers, and strengthens the MLS® and REALTOR® brands.

The policy addresses the increased use of limited exposure marketing tactics which can result in the withholding of property listings from MLS® Systems diminishing the efficiency, value and benefits that MLS® Systems provide to REALTORS® and home buyers and sellers. The policy ensures that all REALTORS® and their clients have access to the most comprehensive property information on MLS® Systems during the home buying and selling process.

Who decides whether this policy should be adopted?

A REALTOR® Cooperation Working Group was created by CREA in February 2021, consisting of Executive Officers from various boards/associations across the country and CREA staff, to review the current issues surrounding cooperation in the industry and propose solutions on how they can be addressed. Upon review of the issues and potential solutions, and extensive consultation with industry stakeholders throughout Canada, the REALTOR® Cooperation Working Group put forth a recommendation to CREA's Board of Directors that a policy be adopted as one of the solutions to address cooperation issues in the industry. REALTOR® Cooperation will be brought to the membership for a vote at our 2023 AGM.

When would this policy come into force?

If approved at our 2023 AGM, boards and associations that operate MLS® Systems will be provided a reasonable amount of time to adopt and enforce this or an equivalent policy in their MLS® System rules.

Who was consulted?

The REALTOR® Cooperation Working Group consulted a wide variety of industry stakeholders concerning the main principles of the policy through meetings, information sessions and surveys. Industry stakeholders consulted include Association Executives, board/association leadership across the country, REALTOR® members, franchisors, and CREA committees.

Details include:

- A working group composed of 15 EOs from across the country was formed in February 2021, ultimately recommending a REALTOR® Cooperation Policy to the CREA Board in August 2022 for consideration and adoption.
- Membership survey conducted on this topic in November 2021
- Six regional consultation meetings held across the country
- Other consultations in 2022:
    1. Meeting with CREA's Brokers Committee
    2. Meeting with AEs
    3. Meeting with Franchisors Group
    4. Discussion and Q & A at CREA's Open Forum
    5. Discussion at AE Seminar
    6. Townhall for Board/Association Leadership

Does CREA have the authority to adopt policies?

Yes, CREA's Board of Directors has the power to approve policies and rules under CREA's incorporating legislation (the Canada Not-for-profit Corporations Act) and CREA's By-Laws and Rules. CREA's Board of directors has a direct responsibility to identify major issues and trends affecting the profession, develop standards of ethics and practice for the conduct of business in the profession, and to consider and approve policies that further these objectives.

Will REALTORS® be required to comply with this policy?

If approved, yes, REALTORS® would be required to comply with this policy through their membership in local boards/associations.

Will adoption of a REALTOR® Cooperation policy require changes to board/association MLS® System rules?

Adopting the policy may require changes to board/association MLS® System rules and will depend on how the board/association MLS® System rules are currently drafted. Boards/associations should review their current MLS® System rules to determine what rules may be affected, if any, and whether any rules may need to be amended to become consistent with the policy.

How would the policy interact with local board/association MLS® Rules that provide a timeframe for placing a property listing to their MLS® System?

The timeframe for placing a property listing on a local board/association MLS® System cannot be longer than the three day period set out in the policy. A This policy would create a minimum standard to which all boards/associations must adhere. However, boards and associations may adopt more stringent rules and timelines as long as those rules and timelines are not less stringent with those set out in the policy. For example, boards/associations may choose to reduce the timeframe for placing listings on their MLS® System following public marketing to one day instead of the three days required by the policy, or to limit the circumstances in which the exemptions provided for in the policy may be used or even eliminate these restrictions).

How does placing a property listing on a board/association MLS® System benefit REALTORS® and consumers?

Placing property listings on a board/association MLS® System increases exposure to a broad group of REALTORS® and their buyer clients which benefits both sellers and buyers. From a seller's perspective, a property listing with extensive 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. At the same time, buyer clients benefit when their REALTORS® have access to a more complete inventory of homes for sale that may meet their needs. The value of MLS® Systems as efficient and effective cooperative selling systems benefit everyone, including all participating REALTORS® and consumers.

Has a similar policy been implemented in other jurisdictions?

Yes, a similar policy was adopted in the U.S. by the National Association of REALTORS® (NAR), called the Clear Cooperation Policy. The NAR Clear Cooperation Policy requires all property listings to be submitted to MLS® Systems for cooperation within one (1) business day of public marketing

Policy Interpretation

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. Public marketing includes any representation regarding the sale of a property, including but not limited to, 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.

What's a "public facing website"?

A public facing website refers to any free or paid website, application or system that the public can access without restriction, and in the context of real estate, to access information on properties listed for purchase and sale.

When would a "day" or the timing start to run for the purposes of the policy?

The timing begins to run as soon as a property listing has first been publicly marketed. For example, if the property listing is first publicly marketed at 10 a.m. on a Monday, the property listing must be placed on the board/association MLS® System for cooperation by 10 a.m. on Thursday.

Would this policy apply to property listings advertised to a group of REALTORS® who are not affiliated with the listing brokerage/office in a business capacity (e.g., private listing network)?

Yes, if a property listing is advertised to any REALTOR® who is not affiliated with the listing brokerage/office in a business capacity, the advertising is considered public marketing and the policy requirements would apply.

Would this policy apply to non-active property listings (e.g., "Coming Soon" listings)?

Yes, the policy would apply to all property listings that are publicly marketed, whether they are active when public marketing begins or not. REALTORS® should be prepared to place all property listings on their board/association's MLS® System within the required timeframe once public marketing begins.

Would this policy apply to all property types (e.g., residential, new construction, commercial, rental)?

No, the policy would be focused on residential properties and provides an exemption for certain property types. The exemption includes commercial property 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.

It is important to note that while the policy would provide minimum standards to be adopted by boards/associations, boards/associations may adopt more stringent rules than those contained in the policy to deal with local issues and may remove or limit exemptions for certain property types provided in the Policy.

Why would commercial property listings exempt from the policy?

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

Why would 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 would not be designed to affect these relationships. However, as the policy would provide 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.

Why would rental property listings exempt from this policy?

Rental property listings would be exempt from the policy requirements due to the different nature of rental transactions compared to residential transactions, and similar to commercial transactions, these represent a relatively small percentage of all real estate transactions. The focus of the policy would be to address cooperation issues which are primarily in the residential re-sale market. However, as the policy would provide 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 to their local board/association MLS® System.

What happens when a property listing is sold within the period after public marketing has begun but prior to being placed on the board/association MLS® System?

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

Can REALTORS® use "Coming Soon" advertising under the policy?

"Coming Soon" advertising is public marketing of property listings 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, if REALTORS® are using "Coming Soon" advertising that includes the MLS® trademark, they must comply with the appropriate form and context rules (e.g., 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 mark 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 would this policy be enforced and who would monitor compliance?

Boards and associations would have the primary responsibility for enforcing the policy as part of the operation and management of their respective MLS® Systems. T Boards/associations would be in the best position to monitor member compliance and may involve CREA where necessary. Since the main concern is the public marketing of a property without placing it on an MLS® System, it is reasonable to expect members to alert their board/ association when they see an issue.

What would the penalties be for non-compliance with the policy?

REALTORS® who do not comply with the policy, as adopted by boards/association in their MLS® System rules or equivalent policy, would be subject to the penalties set out by their board/association.

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