



The Voice for Real Estate in Berkshire County
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Providing our members with the resources to practice real estate ethically, proficiently and successfully in Berkshire County, MA

Policies of the Multiple Listing Service

Amended **September 2010**

These policies are intended to supplement the Bylaws, Rules and Regulations, Code of Ethics and other governing documents of the Multiple Listing Service, a wholly-owned subsidiary of the Berkshire County Board of REALTORS®.

Submission Policy

New Listing Submission

Complete Exclusive Right to Sell / Exclusive Agency property details must be submitted to the MLS Service within two (2) business days after all necessary signatures of the seller(s) have been obtained.

The following indicates **full and complete** submission **of required listing information**:

- **Exclusive Right to Sell Contract, clearly indicating**: property address, seller(s) name, broker's name, *term or duration of contract, *price, *all necessary signatures of seller(s) including but not limited to contract acceptance and initials of said parties on any changes and appropriate broker signature (or authorized broker signature as: Jane Doe for ABC Realty). * Note: if missing, the seller(s) signature will be required for MLS acceptance.
- **Data Input**: Each office may enter their property listing data in the MLS database electronically. Proper submission is confirmed when information is complete and a MLS number is generated. If the MLS Office provides data entry services for the submission of a new listing (additional fees apply), property details must be submitted on a 'Listing Input Form', provided by the MLS office. All mandatory information must be completed and all details neatly printed. Any missing mandatory field information will delay the processing of the listing. If you are not able to complete a mandatory field (e.g.: land is not yet subdivided and therefore taxes have yet to be established), you must indicate such inability to obtain the information by placing a 1 in the field. In order for processing, the reason must be disclosed in the remarks section of the listing information submitted.
- **Photo / Sketch**: One photo / sketch display is mandatory for each property listing. Up to six photos can be uploaded into the system by any user at no cost. The MLS Office can process photos at an additional cost (see fee schedule). Photos for MLS entry may be submitted in hard copy format, on disk or via e-mail. (see photo policy for more information). Submission method

Submission Method

- Contracts and photos must be submitted by fax, mail, e-mail or delivery to the MLS office.

Delayed in Mailing

- If a contract was delayed in mailing, submit the envelope for verification.

The MLS requires completed paperwork for submission to the service, as indicated above.

- If the Data Input Form, Exclusive Right to Sell or Exclusive Agency contract is incomplete, illegible or altered, the MLS will send a fax notice to the Participant, indicating the deficit. Submission is required no later than 5:00 p.m. of the next business day.
- Completed documentation submitted in the required time frame will be processed as usual. Late contract and/or photo fees will be applied, if applicable. Contracts are only considered processed when complete in every detail and are not accepted before.
- Failure or refusal to provide the requested hard copy documentation by 5:00 p.m. of the next business day, will result in removal (Withdrawal Non-Conformance) of the listing in the service and the matter will be addressed by the MLS Board of Directors.
- If the documentation is submitted after the above submission time period, the MLS will re-list the property and assess a listing fee, as well as any late fines or photo fees if applicable.

Altered Contracts:

- Any alterations to an Exclusive Right to Sell Contract must be initialed by the seller(s), for both Broker and MLS protection. Failure to have contract changes initialed will result in the implementation of the fine schedule. Further, as of June 28, 1995, MLS policy was amended to add the following language: “any contract where the date appears to be in question, must have proper documentation.”

Lease & Commercial Property Submissions:

- An Exclusive Listing of Commercial Property and Exclusive Listing of Commercial Property for Lease will be accepted for submission into the commercial lease section in the MLS compilations.
- The terms must contain: Exclusivity, Owners Name, Address, Location of property for sale or lease, seller(s) signature, price of offering, and duration of contract.

Information entered on-line must reflect only those properties which have a signed Exclusive Right to Sell or Exclusive Agency contract with the listing office.

Photo Submission Policy

Electronic Photos

- On-line offices may submit electronic property photos via the MLS System. If photos are transmitted electronically, the contract information can be faxed. If an office chooses to submit photos electronically, instructions will be provided.

Photo Format

- Properties under construction must be clearly marked as such, as well as any proposed property on the photo / sketch submitted and in the remarks of the listing.
- The picture submitted into the Multiple Listing Service for publication should provide additional information about the listing. For example: a photo of the house or building itself, a land lot rendering, an interior shot or a view picture, if appropriate.
- Homes or building that are not yet built: very rough sketches are not appropriate. A detailed sketch or rendering will be acceptable and should clearly state that it is proposed. A floor plan would be acceptable and any photo submitted must be of the actual property.
- Condominium: a photo of the signpost in front of the development is not acceptable. An interior shot, a view picture (if appropriate), or floor plan would be acceptable.
- Land listings: A map of the property or a photo of the view from the property is acceptable. Land Sketches, drawn in back pen, reproduce best if kept simple and dark. Submission of sketches for MLS Office input should be done on a 4x6 or 5x7 index card. Sketches in 8x10 format are unacceptable.

Modifications to Listing Submission

All listing modifications must be submitted to the MLS Service within two (2) business days. Broker-loaded modifications need only be entered into the electronic database; the modification form does not need to be submitted in hard copy format.

- Any change to the terms of an Exclusive Right to Sell contract must be in agreed to in writing by the seller. (Price Change, Expiration Date Extension, Withdrawal and Refusal to List in MLS) Any change to the status of an Exclusive Right to Sell contract does not require the signature of the seller. (Under Agreement, Back on Market, or Sold)
- If there is a question about an entry in the MLS database, the MLS office will fax a notice to the Participant seeking appropriate hard copy documentation for verification. Submission is required no later than 5:00 p.m. of the next business day.
- Failure or refusal to provide the requested hard copy documentation by 5:00 of the next business day will result in fines or action by the MLS Board (see Policy Enforcement Procedures)

Status changes:

- Under-Agreement – Show: This status should be used when a property is under contract but the REALTOR® has chosen to continue to show the property. This is typically used when there are contingencies in the purchase agreement that have not yet been met. Listings with an Under Agreement-Show status are transmitted to REALTOR®.com for display.
- Under Agreement-Final: This status should be used when a property is under contract and the REALTOR® will not continue to show the property. This is typically used when all contingencies in the purchase agreement have been met and a closing is imminent. Listings with an Under Agreement-Final status are not be transmitted to REALTOR®.com.
- Sold information will only be disseminated and transmitted to the server if complete information is entered. Information required: buyer's name, date sold, sale price, selling agent, selling office, concessions and type of financing. The system will automatically calculate the days on market, once entry is complete.

Expired Listings

- Listings that have expired within 30 days can be re-listed if a Modification to Contract form is signed by the seller(s). On-line, copy the existing listing and enter the new expiration date, but retain the original list date for accuracy in the calculation of days on the market. The signed Modification form indicating the new MLS number must then be submitted to the service within two (2) business days of the seller(s) signature. (by mail or fax)
- Listings that have expired after 30 days must be treated as an entirely new listing, and the submission requirements indicated in the "Contract Submission policy" herein, must be followed, although for ease of entry, the listing information can still be copied. This is not considered an extension of a contract, so the listing date must be changed to reflect the new contract information.

Withdrawn Listings:

- Withdrawn-Non Conformance – This status is used when there is a processing error when entering a listing. It denotes that the property is still exclusively listed by the listing office and the withdrawal is to maintain database integrity (ie: a listing is accidentally entered twice, a listing was entered under two property types for maximum exposure and once sold is recorded as both a sale and as withdrawn, the MLS office did not receive paperwork to verify the Exclusive Right to Sell Agreement, etc.)
- Withdrawn – This status is used to withdraw the property from the market and from the MLS database. It is only used at the written direction of the seller (Modification to Contract Form). This withdrawal status is used when the owner no longer wishes to sell the property, or advertise the sale of the property in the Multiple Listing Service database. It is not necessarily a release from the Exclusive Right to Sell contract. Unless otherwise agreed to in writing by both the Broker of Record and the Owner, all contractual responsibilities are in force during the contract duration, even if withdrawn from the market.

- Duplicate Listings – In the event that the MLS finds duplicate listings in the MLS, both listing offices will be notified and asked to submit current, valid, Exclusive Right to Sell paperwork to the MLS Office by 5:00 p.m. of the next business day. The MLS Office will review all paperwork received and will modify the database accordingly and notify all parties. If there is a dispute or the paperwork received does not clearly indicate which party should be considered the ‘Listing Agent’, the MLS will seek legal guidance.
- Seller’s Request for Withdrawal of Listing – On occasion, the MLS Staff receives a direct, written request from a property seller asking that their information be withdrawn from the MLS service. Based on legal counsel advice, we honor all seller requests to remove data from our service. This is followed up immediately with a phone call and letter to the Participant explaining the situation and providing copies of documentation received. The seller is also sent a letter clarifying that the removal of a listing from the MLS is not a termination of their legal obligations under the terms of the contract. We can not and will not attempt to render a conclusion about a contract’s validity.

Refusal To List Property:

A refusal to list form must be on file with the MLS within two (2) business days of the seller(s)’s signature on an Exclusive Right to Sell contract, in which the owner has requested the property not be advertised throughout the service. The form must be completed in full, and be signed by the seller(s) and the listing agent.

Further, if the refusal to list reflects a delayed submission, it is the agent’s responsibility to make sure that the listing is active and submitted to the service on the day indicated.

Delayed Showing:

A delayed showing form must be on file with the MLS within two (2) business days of the seller(s)’s signature on an Exclusive Right to Sell contract, in which the owner has requested the property not be shown for a limited period of time. The form must be completed in full, and be signed by the seller(s) and the listing agent.
[Amended November 28, 2007]

Disclosure Of Interest In Property

Pursuant to MLS Rules and Regulations Section 5.1, the participant or any licensee affiliated with the participant must disclose in the MLS compilation of listing information by selecting remarks of the listing, their interest in that property. (See the Code of Ethics of the National Association of REALTORS® and Massachusetts Real Estate License Law for further guidelines on this subject)

MLS Confidentiality

If a Participant or person employed by or affiliated with a Participants provides unauthorized access to the Multiple Listing Service information, including providing their MLS password to any other person, the Participant will be sanctioned by the MLS Board of Directors, as outlined in the procedures set forth in Section 9 of the MLS Rules and Regulations.

The Multiple Listing Service and potentially the software vendor, will seek legal recourse if any unauthorized person holds and/or utilizes the copyrighted listing database or its software proponent. If a participant is found to have given the database/software to an unauthorized person, the matter will immediately be administratively considered by the MLS Board of Directors or referred to Professional Standards Committee, to handle this severe violation of the Bylaws and Rule and Regulations and the MLS Board will consider any legal action as deemed appropriate. Any action taken by the vendor in such matters remains entirely separate from internal action.

Secondary Office's Agent Policy

Adopted January 1, 2005, MLS Participants that maintain multiple offices, with their primary office location outside of the Berkshire County jurisdiction can assign a 'branch office' to participate in the MLS. This participating office will be subject to all of the same rules, regulations, fees and fines as all other members. Realtor® membership in a Board of REALTORS® is required for access. This provision is designed to allow an organization with multiple offices, some of which are not operating in this jurisdiction, to receive Berkshire MLS services and fees, without obligating their entire organization (other branches) with said service and fees. \

Message Board & E-mail:

Adopted September 2005, the message board is limited to for use by Participants and their associates for posts regarding real estate transactions for sale or lease. Content may not be abusive or disparaging to others. Should a violation of this policy occur, staff will:

Contact the DR with a letter of warning for the first offense.
Terminate message board access to the offending agent if a second offense occurs.

Reciprocal MLS Agreements

The Berkshire County MLS is currently a reciprocal MLS with the following two entities:

- Columbia Greene Board of REALTORS - \$40.
- Greater Albany \$50

This agreement allows Berkshire MLS Participants to list properties for sale in the above named MLS systems, at the prices indicated. If a Participant wishes to utilize this service, a hard copy photo, check and unique listing form must be submitted to the Berkshire County Board Office for processing.

Internet Data Exchange (IDX)

Misuse of the MLS Data Feeds or Compilation

If Staff suspects, at any time, there is misuse or fraud in relation to the data feeds delivered by the MLS, the staff is granted all rights to immediately terminate the data feed pending investigation. Staff shall notify the Participant of the termination, and the reason for the shut-off. Staff can work with the Participant to clear up any misuse concerns, but the Participant is afforded, in no more than seven (7) days, to have the allegations administratively considered by the MLS Board of Directors, as outlined and described in the bylaws and rules and regulations of the service. It is to be noted that after termination of a data feed due to suspicious circumstances, the process will be handled according to governing documents of the organization for a violation of the regulations of the service.

IDX & Smart Frame Use Requirements

1. The MLS limits the right to display other Participants' listing to licensed Real Estate Brokers who hold participatory rights in the Berkshire MLS. Participants may provide the Multiple Listing Service with a written release granting an agent in good standing with the ability to utilize the smart frame MLS solution, provided that the Participant acknowledges supervisory responsibility for said agent.
2. The MLS requires that listing information displayed on a Participant's website not be modified.

3. The MLS prohibits the display of certain confidential listing information fields, when another Participant's listings are displayed on a cooperating Participant's website. These fields are intended for cooperating Brokers' use, not for Consumers (see attached Matrix for specific fields prohibited).
4. The MLS requires that the display of certain listing information be included when another Participant's listings are displayed on a cooperating Participant's website. The inclusion of this information should be displayed in a manner that is consistent with the font size and location of other standard listing information (see attached Matrix for the specific fields required).
5. The MLS determined that certain listing information is optional, when other Participants' listings are displayed on a cooperating Participant's website (see attached Matrix for the specific fields that are optional).
6. The MLS requires that any display of another Participant's listings must indicate the source of the information being displayed and, in the case of downloaded information, the most recent date downloaded. The MLS further requires that Participants refresh all downloads and refresh all data at least once every seven(7) days. Examples follow:

"Information from the Berkshire County Board of Realtors®, Inc. or its Multiple Listing Service, last updated __/__/__. Information herein believed to be accurate, but not warranted."

"All right, title and interest in the exclusively listed property information represented on this website was created, maintained and copyrighted by the Berkshire County Board of Realtors®, and in copyrights therein, shall at all times remain vested in the Berkshire County Board of Realtors®. As a Participant of the Berkshire County Multiple Listing Service, this company was granted a lease to use this information in accordance with all rules and regulations of the Service."

7. The MLS prohibits sharing of the MLS database with any unauthorized third party and requires that Participants display the following language on their website where listings are displayed:

"This information is being provided for Consumers' personal, non-commercial use and may not be used for any purpose other than to identify prospective properties Consumers may be interested in purchasing."
8. The MLS has established that 24 listings is a reasonable limit on the amount of data/number of listings that Consumers may retrieve or download in response to an inquiry.
9. The MLS prohibits the co-mingling of the Berkshire MLS IDX display data with that of any other listings, including but not limited to, private databases, non-listed properties or databases of any other MLS. Participants must notify the MLS of their intention to establish an IDX site and must make their site directly accessible to the MLS for purposes of monitoring/ensuring compliance with applicable rules and policies.
10. Participants must protect IDX information from misappropriation by employing reasonable efforts to monitor and prevent "scraping" or other unauthorized accessing, reproduction, or use of the MLS database.
11. Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or property address from display on the Internet (including, but not limited to, publicly-accessible Web sites or VOWs) shall not be accessible via IDX sites. Notwithstanding this prohibition, listing brokers may display on their IDX sites or their other Web site(s) the listing or property address of consenting sellers.
13. Participants may select the listings they choose to display on their IDX sites based only on objective criteria including, but not limited to, factors such as geography or location ("uptown," "downtown," etc.), list price, type of property (e.g., condominiums, cooperatives, single-family detached, multi-family), cooperative compensation offered by listing brokers, type of listing (e.g., exclusive right-to-sell, or exclusive agency), or the level of service being provided by the listing firm. Selection of listings displayed on any IDX site must be independently made by each participant.
14. Except as provided in these rules, an IDX site or a participant or user operating an IDX site may not distribute, provide, or make any portion of the MLS database available to any person or entity.

15. When displaying listing content, a participant's or user's IDX site must clearly identify the name of the brokerage firm under which they operate in a readily visible color and typeface.
16. Listings displayed pursuant to IDX shall contain only those fields of data designated by the MLS. Display of all other fields (as determined by the MLS) is prohibited. Confidential fields intended only for other MLS participants and users (e.g., cooperative compensation offers, showing instructions, property security information, etc.) may not be displayed on IDX sites.
17. The type of listing agreement (e.g., exclusive right to sell, exclusive agency, etc.) may not be displayed on IDX sites.
18. Participants shall not modify or manipulate information relating to other participants' listings. (This is not a limitation on site design but refers to changes to actual listing data.) MLS data may be augmented with additional data not otherwise prohibited from display so long as the source of the additional data is clearly identified. This requirement does not restrict the format of MLS data display or display of fewer than all of the available listings or fewer authorized data fields.
19. Each listing displayed pursuant to IDX shall identify the listing firm and listing agent on every page that listing information appears, in a readily visible color and typeface not smaller than the median used in the display of listing data.
20. Participants must refresh all downloads and refresh all data at least once every seven (7) days.
21. Participants (and their affiliated licensees, if applicable) shall indicate on their Web sites that IDX information is provided exclusively for consumers' personal, non-commercial use, that it may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing, and that data is deemed reliable but is not guaranteed accurate by the MLS. The MLS may, at its discretion, require use of other disclaimers as necessary to protect participants and/or the MLS from liability.
22. Listings obtained through IDX must be displayed separately from listings obtained from other sources, including information provided by other MLSs. Listings obtained from other sources (e.g., from other MLSs, from non-participating brokers, etc.) must display the source from which each such listing was obtained.
23. Display of expired, withdrawn, and pending listings is prohibited.
24. Display of seller's(s') and/or occupant's(s') name(s), phone number(s), and email address(es) is prohibited.
25. Participants are required to employ appropriate security protection such as firewalls, provided that any security measures required may not be greater than those employed by the MLS.
26. IDX operators must maintain an audit trail of consumer activity on the IDX site and make that information available to the MLS if the MLS believes the IDX site has caused or permitted a breach in the security of the data or a violation of MLS rules related to use by consumers.

IDX Display Requirements:

1. The Multiple Listing Service grants all Participants, and all subscribers (upon their Participant's written approval), a right to use a smart frame IDX solution.
2. Participants and subscribers are prohibited from framing the Board IDX website display, since custom links are available to the membership for free.
3. As outlined in paragraph 19, the requirement to include the listing firm and listing agent identifications encompass every occurrence where IDX listing information is display, including but not limited to, search results pages with listing information displayed in limited format and detail pages.

Fields marked as 'mandatory' MUST be displayed in the IDX listing details. Fields marked 'prohibited' can NOT be displayed anywhere in an IDX listing. All fields that are not shown in this list can be displayed at the IDX user's discretion.

IDX Field List:

Main Field Name	Display Policy
MLS #	Mandatory
City	Mandatory
Listing Member	Mandatory
Listing Office	Mandatory
Street #*	Conditional*
Street Direction*	Conditional*
Street Ext*	Conditional*
Street Name*	Conditional*
<i>*Information can be displayed only if the listing agent checked "yes" to "Seller Consents to Show Street Name On IDX"</i>	
Contract Information	Display Policy
BAC	Prohibited
NAC	Prohibited
SAC	Prohibited
List Date	Prohibited
Exp Date	Prohibited
Limited Service	Prohibited
List Price	Mandatory
Location, Tax & Legal	Display Policy
Map Ref	Prohibited
Page	Prohibited
Book	Prohibited
Seller(s)	Prohibited
General Description	Display Policy
Directions	Prohibited
Office Remarks	Prohibited
Realtor.com Type*	Prohibited
Realtor-to-Realtor	Prohibited
Showing Instructions	Prohibited
Telephone Pole Coord	Prohibited

Approved October 2008, Deadline for Compliance by membership: 3/31/09.

Virtual Office Websites (VOW)

For purposes of this Policy, the term Virtual Office Website ("VOW") refers to a Participant's Internet website, or a feature of a Participant's Internet website, through which the Participant is capable of providing real estate brokerage services to consumers with whom the Participant has first established a broker-consumer relationship (as defined by state law) where the consumer has the opportunity to search MLS data, subject to the Participant's oversight, supervision, and accountability. All regulations governing a Participant's VOW are contained in the Rules and Regulations of the Service, and adhere to all policies adopted and approved by the National Association of REALTORS.

MLS Raw Data Usage and Access

(Approved September 2010)

Data access and licensing limited to uses permitted by MLS policy.

The Multiple Listing Service of the Berkshire County Board of REALTORS® complies with applicable laws and with the multiple listing policies of the National Association of REALTORS® (NAR) as set forth in the NAR Handbook on Multiple Listing Policy. NAR's internet data exchange and virtual office website policies require MLS to provide limited data access and licensing to MLS participants under certain circumstances; but these are the only circumstances under which MLS can be compelled to license or provide access to MLS listing data content or membership information.

Furthermore, Participant and third party vendors engaged by a Participant are subject to all of the MLS's other policies, including standard licensing and access agreements, MLS Bylaws, MLS Rules and Regulations, MLS Policies, NAR MLS policies, and by applicable law. Therefore, the MLS shall provide access to and license MLS listing and membership data content only where consistent with these policies.

Definitions:

"Listing data" as used in the National Association's multiple listing policies, including the model MLS rules and regulations, includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.

"RETS" is defined as the "Real Estate Transaction Standard" programming language to aid in exchanging real estate transaction information. The MLS hosts a RETS server that is able to stream real-time data to a receiving computer equipped with RETS software that reads and translate the RETS data into a formatted display. RETS code / software is used by many real estate service providers to build websites, software systems for real estate companies and more.

Uses of MLS Listing Data

There are several types of limited electronic content uses and formats. Each has specific prerequisites for downloading data, ongoing obligations for use and compliance with the MLS Rules, Regulations and Policies that govern the use of data:

- 1) Limited listing data provided via IDX smart frame, Open House smart frame and Office Listing smart frame for Participant use on office or agent websites
- 2) Limited listing data provided via an IDX RETS feed for Participant use on office or agent websites
- 3) Limited listing data provided via a RETS feed for Participant use in-house and in back-office systems
- 4) Comprehensive listing data for Participant's own listings via a RETS feed for Participant use
- 5) Comprehensive listing data for Participant's own listings via a RETS feed for a third-party vendor, as requested by the Participant.

MLS responsibility for protecting data content.

The MLS is responsible for obtaining and protecting intellectual property rights in the database content relating to listings on behalf of the listing broker. MLS will achieve this objective by taking all the following steps:

- Obtaining assignments from agents and third parties that contribute data content relating to listings.
- Granting a broad license to listing brokers to use content relating to their own listings.

- Granting a narrow license to all MLS participants to use the data content of other brokers to the limited extent permitted by the MLS rules.
- Enforcing MLS rules relating to use of listing content.
- Pursuing copyright infringers and database pirates to the extent possible, taking into consideration MLS's budget and staff resources.

Any MLS information, whether provided in written or printed form, provided electronically, or provided in any other form or format, is provided for the exclusive use of the participant and those licensees affiliated with the participant who are authorized to have access to such information. Such information may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm.

Any use of MLS data content that is not expressly authorized in these policy statements or in the MLS rules and regulations is hereby prohibited.

Participant use of their own listing data

Nothing contained herein shall be construed to preclude any participant from utilizing, displaying, distributing, or reproducing property listing sheets or other compilations of data pertaining exclusively to properties currently listed for sale with the participant.

The listing broker has the right and complete freedom to use the database content (text and photos) relating to its active and off-market inventory; to the extent possible, subject to MLS policies. With due consideration for operational costs, MLS will attempt to facilitate transmission of the listing broker's content to recipients the listing broker specifies. MLS shall nonetheless impose the following conditions upon its cooperation with listing brokers in such matters:

- The requesting broker must agree that MLS is not liable for data content accuracy or for frequency of data updates.
- MLS will not assist in transmitting listing broker content to any third party that is apparently aggregating broker data in order to compete with the MLS service or with some aspect of it.
- Listing broker and its third party must sign MLS's standard access and license agreement, which includes provisions to protect MLS and listing broker.

Participant use of other broker's listing data, including online display.

Participants, and those persons affiliated as licensees with such Participants, shall be permitted to display the MLS Compilation to prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing and able buyers for the properties described in said MLS compilation. The Participant is permitted to provide prospective purchasers with listing data relating to properties which the prospective purchaser has a bona fide interest in purchasing or in which the participant is seeking to promote interest. The term reasonable, as used herein, should therefore be construed to permit only limited reproduction of property listing data intended to facilitate the prospective purchaser's decision-making process in the consideration of a purchase. Factors which shall be considered in deciding whether the reproductions made are consistent with this intent and thus reasonable in number, shall include, but are not limited to, the total number of listings in the MLS compilation, how closely the types of properties contained in such listings accord with the prospective purchaser's expressed desires and ability to purchase, whether the reproductions were made on a selective basis, and whether the type of properties contained in the property listing data is consistent with a normal itinerary of properties which would be shown to the prospective purchaser.

Display of listing information is governed by IDX and VOW policies, the Code of Ethics and the National Association of REALTORS polices, as set forth in the Multiple Listing Service Rules and Regulations and Policy Manual, as from time to time amended and incorporated in these polices by reference.

Participant non-core uses including other brokers' listings.

Each participant is entitled to receive a download of relevant portions of the MLS data content, including listing content of other brokers, for purposes of building in-house and back-office systems, provided all the following requirements are met:

- Only the staff and licensees of the Participant for whom applicable fees have been paid to MLS may access MLS data content.
- There is no financial or commercial advantage to the use of listing data (other than facilitating the sale of property listed in the service);
- The Participant, their agents or third party vendors must not be aggregating listing data in order to compete with the MLS service or some aspect of MLS service.
- The Participant, their agents or third party vendors must not use compiled listing data to target clients of other REALTORS® for communication or the solicitation of business in any way.
- Listing broker and its third party must sign MLS's standard access and license agreement, which includes provisions to protect MLS and listing broker.
- The Participant must enter into a standard download/license agreement with MLS.
- Any third party vendor working with, and having access to the listing data feed must enter into a standard download/use agreement with the MLS.
- The Participant must take responsibility for all data integrity issues arising from the download.
- The Participant must take steps to prevent the MLS data in its custody from being pirated.
- The Participant must provide the MLS staff with log-in information to review the final data feed integration for compliance
- The Participant must pay to MLS the fee established by MLS to recover its direct and indirect costs for the download.

Participant use implemented by third party providers to deliver services to participants.

No third party or participant may use MLS content for purposes of delivering it back to authorized participants and subscribers, this being the exclusive role of the MLS. The MLS may nevertheless permit such a use under the following circumstances:

- MLS will provide access to the MLS content for this purpose only if the MLS in its sole discretion determines that the service is an important one that the MLS cannot feasibly offer on its own.
- MLS will perform thorough due diligence on the third party or broker proposing to use the MLS content in such a service.
- MLS determines that allowing a third party or participant to provide this service to other participants will not injure the business interests of MLS or of other participants.

Process for requests for Data Feeds.

MLS staff will obtain the appropriate signed agreements, contact information, log-in access, verification information, third party vendor agreements, etc., as required according to these policy statements.

MLS staff will employ the following steps when dealing with requests not falling within these policy statements.

- Find the data use or category above that most closely approximates the use being requested.
- Identify the key differences between the use above and the requested use.
- Determine if factors support the use being requested, if for example:
 - (a) listing broker consent is required;
 - (b) end-users of the data for the use will be MLS subscribers and participants only;
 - (c) the use is designed to provide data content for purposes of enhancing real estate sales and not for some other commercial purpose; and
 - (d) if aggregated data is being made available for third party use, individual listings are not individually identifiable.

- Determine whether factors recommend against the use requested, if for example:
 - (a) end-users of the data for the use will be consumers;
 - (b) some financial or commercial advantage will accrue to the data user (other than encouraging the sale of property listed in the service);
 - (c) the data use requires the MLS data to be handled by third parties;
 - (d) the data use requires that a whole copy or nearly a whole copy of the MLS database must be delivered into the hands of a third party.
- Weigh the information obtained in the previous three steps and determine whether to permit the data use.
- If data use is denied by Staff, the Participant can elect to have the request brought to the MLS Board of Directors for reconsideration.
- Schedule a discussion about whether to adopt a policy regarding similar requests in the future.

Standard agreements.

MLS Staff shall administer standard contract documents necessary to implement these policies. MLS staff is further directed to modify the standard contracts as necessary based upon experience of the MLS staff, the advice of counsel or changes or recommendations made by the National Association of REALTORS, to achieve the purposes set forth in these policies.

MLS structured access with listing broker permission.

MLS may from time to time enter into agreements to license data content to participants and third parties, such as IDX, Realtor.com, commercial data services, etc. These licenses are subject to each of the following conditions:

- Listing broker permission must be obtained. MLS may presume listing broker permission provided MLS notifies listing brokers in advance and provides them an opportunity to “opt-out.”
- Listing brokers must be informed when they have the opportunity to opt out of a data use what revenues the MLS anticipates from the license deal (above MLS’s costs) and the means MLS will use to distribute any revenues.
- MLS will impose a data license agreement for each type of data use on the receiving participant and third party, if applicable.

Ownership of Listing and Listing Content

By the action of submission of any property listing content to the Board MLS the Participant represents that they have been authorized to grant and also thereby does grant authority for the Board to include the property listing content in its copyrighted MLS compilation and also in any statistical report on "Comparable." Listing content includes but is not limited to photographs, images, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information and other details or information related to listed property. Participants consent to use of their listing data, provided that listing brokers are given adequate prior notice of any intended use unrelated to the defined purpose of MLS, and provided that they are given the opportunity to affirmatively withhold consent for that use. Participants consent to allow MLS storage, reproduction, compiling, and distribution of listings and listing information to the extent necessary to fulfill the defined purposes of MLS.

While individual Participant may hold intellectual property rights to their listing data, all right, title and interest in each copy of every Multiple Listing Compilation created and copyrighted by the Berkshire County Board of REALTORS®, and in copyrights therein, shall at all times remain vested in the Berkshire County Board of REALTORS®.

Confidentiality of MLS Information

Any information provided by the multiple listing service to the participants shall be considered official information of the service. Such information shall be considered confidential and exclusively for the use of

participants and real estate licensees affiliated with such participants and those participants who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property and licensed or certified appraisers affiliated with such participants.

Misuse of the MLS Data Feeds or Compilation

If Staff suspects, at any time, there is misuse or fraud in relation to the data feeds delivered by the MLS, the staff is granted all rights to immediately terminate the data feed pending investigation. Staff shall notify the Participant of the termination, and the reason for the shut-off. Staff can work with the Participant to clear up any misuse concerns, but the Participant is afforded, in no more than seven (7) days, to have the allegations administratively considered by the MLS Board of Directors, as outlined and described in the bylaws and rules and regulations of the service. It is to be noted that after termination of a data feed due to suspicious circumstances, the process will be handled according to governing documents of the organization for a violation of the regulations of the service.

Monitoring and Review of Data feeds

Staff shall provide random audits of datafeeds, including the changing of passwords, review of in-house systems and verification that the third party vendor (if applicable) is operating the business as originally cited in the agreements.

All electronic compilations of listing information that is displayed for use by prospective purchasers is limited to and shall be governed by the MLS Rules and Regulations and Policies relative to Internet Data Exchange (IDX) and Virtual Office Websites (VOW).

Policy Enforcement Procedures

Listing / Modification fines:

The fines relate to information filed improperly with the MLS Office. The MLS Committee has the right and obligation to enforce these polices and any alleged violation of our Rules and Regulations in accordance with Section 9, 9.1 and 9.2 of our Rules and Regulations.

NOTE: Handling Fees (Fines) will not be addressed on an individual basis. All handling fees incurred will appear on the Participant’s monthly statement. Any disputes to the imposed fine can be made, in writing, to the MLS Board of Directors for consideration. Amended: 05/2008

<u>Type</u>	<u>Policy Violation</u>	<u>Fine</u>
New Listings:	Failure to submit full listing documentation as defined in section 1 of this policy within two (2) business days of the seller's signature, provided the listing was entered into the electronic database system and was disseminated to the membership within two (2) business days.	\$5 fine
	Failure to submit full listing information, including the photograph according to the Photo Submission Policy, into the electronic database system for dissemination to the membership within 2 - 7 business days of Seller's Signature:	\$50.00 Fine
	Failure to submit full listing information, including the photograph according to the Photo Submission Policy, into the electronic database system for dissemination to the membership within 8 - 13 business days of Seller's Signature:	Additional \$ 100.00 Fine
	Failure to submit full listing information, , including the photograph according to the Photo Submission Policy, into the electronic database system for dissemination to the membership within 14-19 business days of Seller's Signature:	Additional \$ 250.00 Fine

	Failure to submit full listing information, , including the photograph according to the Photo Submission Policy, into the electronic database system for dissemination to the membership within 20 business days of Seller's Signature:	Grievance filed by the MLS
Active Contingent:	Failure to submit Under Agreement-Show status within two (2) days of seller(s) execution of Purchase and Sale, provided the agent is continuing to show the property.	\$25 Fine
Pending:	Failure to submit Under Agreement-Final status within two (2) days of the final P&S contingency dates having been met, or agent ceases to show the subject property	\$25 Fine
Closed:	Failure to submit full sold information within two (2) business days of a closing	\$100 Fine
Hard copy Documentation	Failure to provide the Board Office with hard copy documentation as requested, by 5:00 p.m. of the next business day	\$100 Fine

Further, all attempts to enforce these policies, or uphold the provisions of the Rules and Regulation of the Service, or the Bylaws of the Service, or of the Code of Ethics and Arbitration process, or any policy as set for by the National Association of REALTORS, shall be dealt with according to Section 7 - Compliance With Rules, found in the Rules and Regulations of the Multiple Listing Service or applicable regulation approved by the Board of Directors and ratified by the Berkshire County board of REALTORS.

Service Charges and Fees (As from time to time amended)

Realtor® User Subscription Fee	\$ 30.00	Broker Loaded Listing Fees	\$5.00
MLS Initial Participation Fee	\$ 500.00	MLS Loaded Listing Fee	\$16.00
Reinstatement Fee	\$ 100.00	MLS Loaded Photo Fee	\$ 5.00
Bank Service Fee – Return Checks	\$ 15.00	Non-Member Reciprocal Listing	Sec. 5

(end)