

### **Clear Cooperation Policy**

- I. Once a broker starts marketing a property to the public, he or she has one business day to submit the listing to the MLS.

“Marketing a property to the public” includes yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), email blasts and multi-broker private networks.

A “business day” excludes Saturdays, Sundays and federal and state holidays.

The standard rationale behind the new policy is that the fact that the listing broker is public marketing a listing shows that they have concluded that cooperating with other MLS participants is in their client’s best interests.

This is a mandatory policy – a local board cannot shorten the deadline or otherwise modify the policy.

The Clear Cooperation Policy only covers listings of property types that require mandatory submission. (Some local MLSs have a policy which provides for voluntary submission of listings for some property types (*e.g.*, vacant land).)

- II. NAR’s “Clear Cooperation Policy” does NOT mean every listing must be submitted to MLS within one business day after signing. MLSs can still have their own rule as to timing of submissions after signing. The policy means only that if a listing is marketed to the public, then the one business day rule goes into effect.

So, for example, an MLS could have a rule that a listing must be submitted within 48 hours of list date or one business day of marketing the property to the public, whichever comes first.

- III. NAR’s “Clear Cooperation Policy” does not prohibit office exclusives.

Even with NAR’s “Clear Cooperation Policy,” a broker can still have office exclusives, but the marketing of such listings must be limited to other agents within the same brokerage firm. The “Clear Cooperation Policy” is only triggered by “public marketing.”

A listing is viewed as being marketed to the public even if it is being marketed to a select group of licensees.

Remember that MLS rules can require listing brokers to submit office exclusives to the MLS together with a form signed by seller directing that listing not be placed in the MLS.

- IV. Even with NAR’s “Clear Cooperation Policy,” a broker can still have “coming soon” listings. However, if a listing is advertised publicly as “coming soon,” it must also be submitted to the MLS. The Clear Cooperation Policy applies to any listing that is or will be available for cooperation. (While a property is in “coming soon” status, neither the seller nor the listing broker may advertise the property anywhere other than as “coming soon.”)

A “coming soon” listing refers to a property that is currently unavailable for showing or sale. A property that is currently being marketed to a select group of people is not truly a “coming soon” listing and calling it such is misleading.

In addition to the “Clear Cooperation Policy,” an MLS can have its own “coming soon” rules.

Most commonly, MLS “coming soon” rules prohibit any showings or sales during the “coming soon” period.

But some MLSs go beyond that and adopt rules designed to discourage the use of the “coming soon” technique for the purpose of excluding property from the open market.

1. For example, in some MLSs, a “coming soon” period cannot exceed a particular number of days (*e.g.*, 14-21 days).
2. Some MLSs require that any “coming soon” listing have a stated “go active” date – the listing automatically goes “active” at a particular time on the scheduled “go active” date.
3. Some MLS rules provide that listings may not be activated prior to the originally designated “go active” date.
4. Under some MLS rules, a property may only be allowed in “coming soon” status one time with same owner (or one time with the same listing broker) unless the property has been off market for a particular time period (*e.g.*, 60-90 days).