

Clear Cooperation Policy



And Multiple Listing Service, Inc.

THAT'S WHO WE





"WHAT'S IT ALL ABOUT?"

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants.







Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.

It is Pro-Consumer!

It equally protects the sellers' and buyers'

best interests





Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.







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It is Pro-Consumer!

It ensures

fully informed sellers

about market exposure





Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.

It is Pro-Consumer!

equal, fair opportunity to buy





Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.

It is Pro-Consumer!

It helps avoid liability

ISSUES when there is a limited exposure without full disclosure



Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.

It ALSO Pro-REALTOR!

The public should not be more

informed than MLS members





Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.

It ALSO Pro-REALTOR!

By holding MLS membership, all

agree to cooperate,

and should do so on equal terms





Summary: REALTORS must enter their listing into the MLS within 1 day of any form of marketing.

It ALSO Pro-REALTOR!

It fulfils the purpose of the MLS to facilitate efficient marketplace





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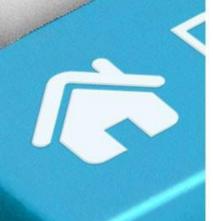
It ALSO Pro-REALTOR!

It eliminates the need to hunt

for pocket listings on

the market





MLS Clear Cooperation 1-2-3

01 New Submission Deadline for ALL Listings

03

Within 1 business day of Marketing, OR
Within 2 business days of Seller Signature

Whichever Comes 1st!

Submission of Listings Not Ready for Showing

Coming Soon Listing, marketed as ready with 7 days

Delayed Listing, no marketing until ready to go active

Submission Requirements for Off-MLS listings

Office Exclusives must be filed with MLS

No public marketing without entry into MLS





The MLS exists to ...



- (1) maintain complete, accurate information
- (2) in an organized and timely manner
- 3) which promotes orderly and efficient marketplaces
- 4 that serve the interests of sellers, buyers and REALTORS.

Cooperation & Compensation

Does any of this sound familiar?

Real Estate You see a MLS member's lawn sign at a property but can't find it the MLS. Your buyer client asks about a Facebook listing posted by a member but it's not in the MLS. Your clients missed an opportunity to see or make an offer on a property because it came on the market pending, before anyone knew about it?

You belong to the MLS to receive and share property information and offers of cooperation and compensation for exclusive property listings.

COOPERATION



COMPENSATION

As a member, you should be the FIRST to know of listed property, not the last.





Cooperation, Honesty, Respect





The MLS Agreement

MLS Participants shall:

- have all rights, benefits, and privileges of the service and,
- accept all obligations to the MLS for their firm's compliance with the rules of the MLS



- Article 3
 Cooperate with other
 REALTORS
- Article 16
 Respect other
 REALTORS' exclusive
 representation of clients
- Article 12
 Present a true picture in advertising (coming soon listings must come!



When a Broker voluntarily joins the MLS they gain a huge financial and business benefit of cooperation – but it relies on everyone cooperating equally. If they cannot or chose not to, maybe MLS is not for them.



Why does it matter?

Big Business! Big impact to consumers and clients!



Sales

In 2019, Berkshire REALTORS worked cooperatively on \$587.6 million dollars worth of real estate sales.





Compensation

Over \$16 million dollars was paid to cooperating REALTORS through the co-broke offer made in the MLS.

How would your business change without this MLS system of cooperation and compensation?

By becoming a member and agreeing to and following the rules, you serve your clients in the best possible manner with the most accurate information, a network of peers to work with and access to properties and an orderly marketplace.



New Listing Coming soon "Sneak Peak"

It's all marketing

FOR

Sharing your listing with any REALTOR outside your firm is considered marketing.

What you make available to one, you must make available to all via the MLS.

Buyers and Sellers benefit!

Marketing Examples

- Lawn Sign on the Property
- Facebook post
- Zillow Coming Soon Listing
- Website featured property
- Flyer in the Office Window
- Open House ad on/after the active date (and includes Coming Soon on XX date)
- Listing in the Book of Homes
- Email blast to your buyer contacts
- Email blast to a group of agents
- IDX Listing on Other Brokerages Websites

Reminder of Marketing Compliance with Law

- Advertise with Broker/Brokerage name
- Only with Broker's informed consent
- On a business Page or site
- Full disclosure of real estate status
- Honest and True Representation
- Not misleading or deceptive



Within one (1) Business Day of Marketing, OR Within two (2) Business Days of Seller Signature, whichever comes first, listings...





Or ... Must be Sent to MLS Office 02

Standard New Listing

Seller has signed a listing agreement and is ready to show and ready to go with the marketing and sale of the property.

Coming Soon Listing

Seller has signed a listing agreement and Coming Soon Addendum and allows marketing before the property is available for showing (within 7 days).

Public Marketing Allowed

Delayed Listing

Seller has signed a listing agreement and Delayed Listing Addendum and is not quite ready to market or show the property.

Office Exclusive

Seller has signed a listing agreement and Office Exclusive Addendum to keep the listing private within your firm's circle of buyers.

Public Marketing NOT Allowed





May 2020 Listing Submission Cheat Sheet

Congratulations!

Get Started In the MLS...

You have a new, exclusive listing...



Follow the arrows YES Is your seller ready to begin showing the property? NO Do you want to begin marketing

the listing?

Regular 'ole New Listing

Great! Enter it in the MLS ASAP as an active listing.

You have 2 days from seller's signature or 1 day from first marketing, whichever comes first. (FYI - lawn signs count as marketing!)

Coming Soon

Yes - want people to know but won't show:

YES

Get a 'Coming Soon Listing Addendum' signed and enter in the MLS within 1 day of marketing or 2 days from seller's signature. (The listing will automatically go active on the date indicated (no more than 7 days)

Delayed Listing

No - Seller not quite ready, but will be:

Get a 'Delayed Listing Addendum' signed and email to the MLS within 2 days. You must enter the listing as active in the MLS on the date indicated or within 1 day of any type of marketing!)

Office Exclusive NO

No - Seller wants to keep the listing private:

Get an 'Office Exclusive Refusal to List Addendum' signed and email to the MLS within 2 days. No marketing allowed. (You must enter into the MLS as an active listing within 1 day of any marketing!)





Active listing

Available for sale immediately and WILL be marketed





Active Listings

Active Listings



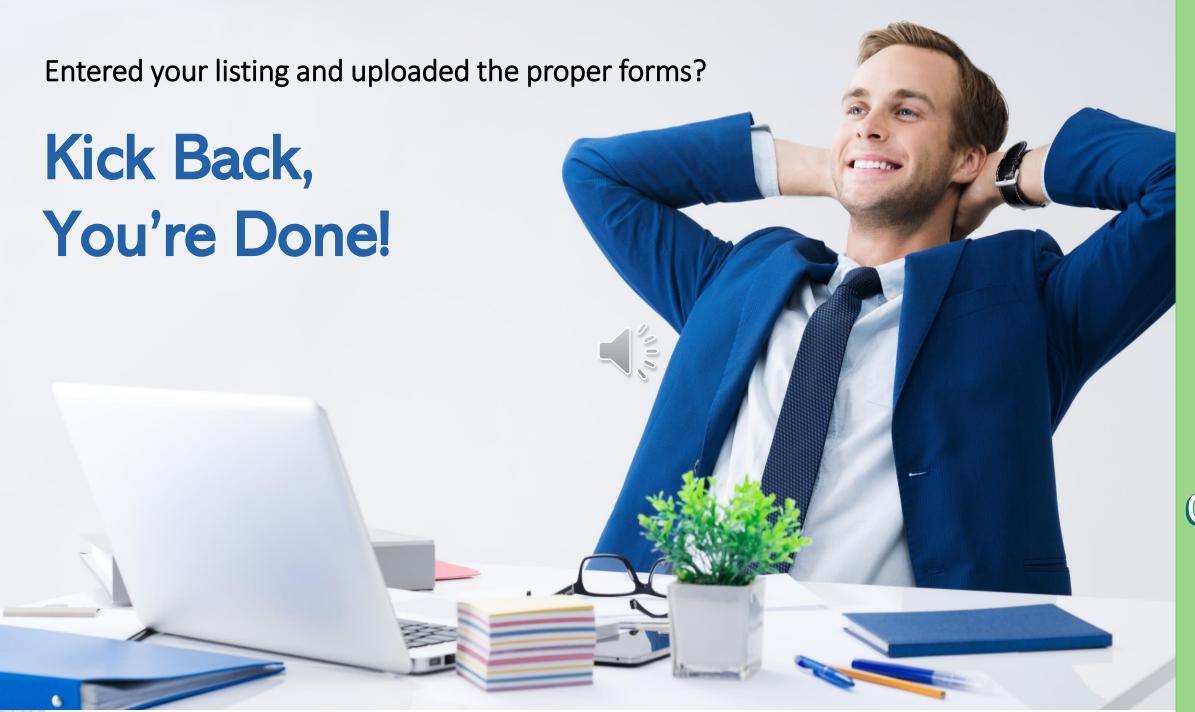
The property is actively marketed for sale, the property is available for showing and offers shall be considered by the seller. The listing shall be entered in the MLS as a new active listing in the timeframe mentioned above, according to the submission requirements outlined in this policy.

Then...



[Status]	Coming Soon ▼	
[Start Showing Date]	Active	Ħ
[Begin Date]	Coming Soon	Ħ







New Submission Deadline for ALL listings

With rione (1) Business Day of Marketing, OR

Whichever Comes 1st!

Within two (2) Business Days of Seller Signature





Coming Soon Listing

Available for sale within 7 days and MAY be marketed.

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What is a coming soon?



A property actively marketed for sale **BUT** according to the written Coming Soon Addendum that accompanies the Exclusive Right to Sell agreement, the property is NOT available for showings, and offers shall NOT be considered by the seller until an "Active Date" that is within 7 days of the seller's signature exclusively listing the property.





The intent of a Coming Soon listing is never to hide listings





- ✓ It's to expose popular listings to the most buyers
- ✓ It's to give the seller time to prep their home for showings.
- ✓ It's to generate marketing buzz.
- ✓ It's to ensure a fair opportunity to see a home when it first hits the market.

Get Broker's Permission First!

Broker-in-Charge



Broker Owners must et-in on a signed form and receive information on strategies to avoid legal liability, acknowledge receipt of the rules and fines for failing to comply, and agree to train their agents before the MLS will allow the entry of coming soon listings by the member firm.





We work to support the highest ethical standards and professionalism of members in service to the community with education, technology, philanthropy, and advocacy for property rights.

Participant Authorization for Use of Coming Soon Status

Upon signature of the Broker holding participatory rights ("Participant") in the Berkshire County Multiple Listing Service ("MLS"), the agents of ______ firm have the right to use the coming soon status and follow the MLS Bylaws, MLS Rules and Regulations, MLS Polices, and the Code of Ethics in using this status.

The undersigned further acknowledges and agrees that;

- 1) The Participant and the agents of the above firm acknowledge they have been provided with a copy of the rules and policies related to the use of Coming Soon listing status.
- The Participant and the agents of the above firm acknowledge they have been provided with the fine schedule for violation of the Policies.
- The Participant and the agents of the above firm acknowledge they have been provided with on-demand training materials outlining submission rules.
- 4) The Participant will ensure proper training by all agents in the firm prior to use of Coming Soon status and will require this training for any new agent subsequently affiliated with firm.

I hold supervisory responsibility for the above-named firm and will ensure adherence to all rules and regulations governing use of MLS data. I agree further, as a condition of use, to familiarize myself with and abide by the governing rules of the Multiple Listing Service, the Board of REALTORS and the Code of Ethics and the National Association of Realtors®, as from time to time amended.

Signature of MLS Participant: Date

Participant authorization form to get started

oming

What properties qualify?



- ✓ Seller Signs Coming Soon Addendum with ERTS
- ✓ Seller Agrees: NO showings, NO access given to prospects
- ✓ Property must be ready for showing in at least 7 days



What properties DON'T qualify?



- . NOT subject to any agreement for sale pending
- . NOT listed as 'Coming Soon' previously



- Limit 1 time per owner, unless off-market at least 60 calendar days
- Off Market is defined as expired or cancelled
- Withdrawn is not considered off market for this calculation.





NATIONAL ASSOCIATION OF REALTORS®

WINDOW



TO THE LAW

VIDEO SERIES



oming S 00n Listings

Legal Landmine



Providing showing or access to a limited group of buyers or agents without seller's lawful direction circumvents MLS duty to cooperate, harms other participants and their exclusive representation obligations of their buyer clients, and potentially consumers who are denied representation or access.







STANDARD BERKSHIRE COUNTY MULTIPLE LISTING SERVICE EXCLUSIVE RIGHT TO SELL CONTRACT COMING SOON LISTING ADDENDUM

1. PARTIES.	Seller(s) Name(s)			("SELLER")
	Mailing Address: Broker / Corporation:			("BROKER")
	Property Address:			("Property")
available buyers a	for showing and sale wind the public to preview	ithin (7) business the property mar	Coming Soon" are not yet officially days. A Coming Soon listing allows keting and MLS listing data with a fix and for when offers will be considered.	real estate agents, ed date when all will be
property loca	ited above have/has re	equested that the	ervice ("MLS") is hereby notified the BROKER place their home in Co of REALTORS®, Inc. under the follo	oming Soon status in th
but no la	ater than two (2) days fro	om the seller's sig	erty with Berkshire MLS as a "Coming nature, or one (1) day of public mark t exceed seven (7) days from the dat	keting, whichever comes
convert	ming Soon period for this to an active MLS listing d. The 'Days on Market	on	shall bedays. The lis (Active date). The Active on will begin on the Active date.	sting shall automatically ve Date cannot be
the date the Prop	it will be available for sl	howing, during the	Soon Listing" sign on the Property a e 'Coming Soon' time. At a minimum, lation shall be included with the "Cor	, one (1) exterior photo o
BROKE	R and Broker's agents,	during the Comin	n to prospective buyers by anyone, in g Soon period. However, showing ap or after the Active date.	
BROKE the Prop	R to hold any offer(s) to perty is not available for	purchase the Pro sale during that p	offer(s) presented to them by the Bit operty received during the Coming So re-market time period. SELLER instr Active date and then forthwith therea	oon preview period becar ructs BROKER to presen
This Co.	ming Soon Listing Adde	ndum will be uplo	aded to the MLS at the time of entry.	
			T UNDERSTOOD, SEEK LEGAL COL	
this addendu	im to the Exclusive Right	to Sell agreement	and hereby acknowledges receipt of a	copy of same.
SELLER:	<u> </u>	DATE	AUTHORIZED BROKER	DATE
			For:	
			BROKERAGE NAME	



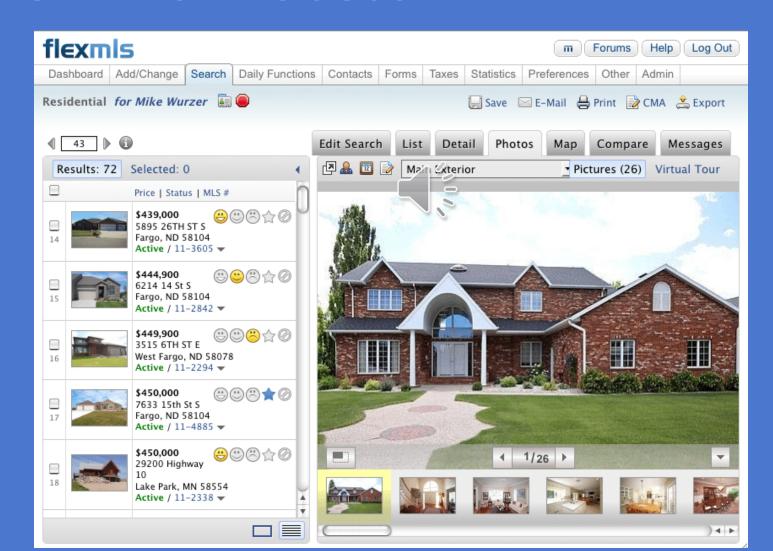
- Seller Agrees Date Property
 Goes Active
- Seller Agrees with MLS
 Submission
- Seller Agrees NO showings
- Seller Waives Right to Have
 Offers Presented
- Seller should know that the BROKER can be held liable for violations of state law if "coming soon" listing never comes, as a breach of the laws governing truth in advertising for consumers (Chapter 93A)





Coming Soon Listings The FlexMLS Process

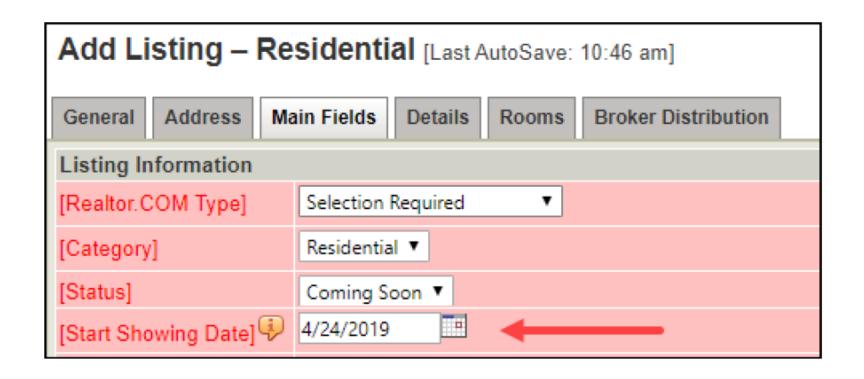






Add a Listing with Coming Soon Status

When entering a new a listing, there is a status selector on the Main Fields tab. The default status is Active, and a user can change it to Coming Soon. If the listing is set as Coming Soon, a required Start Showing Date field will be displayed.



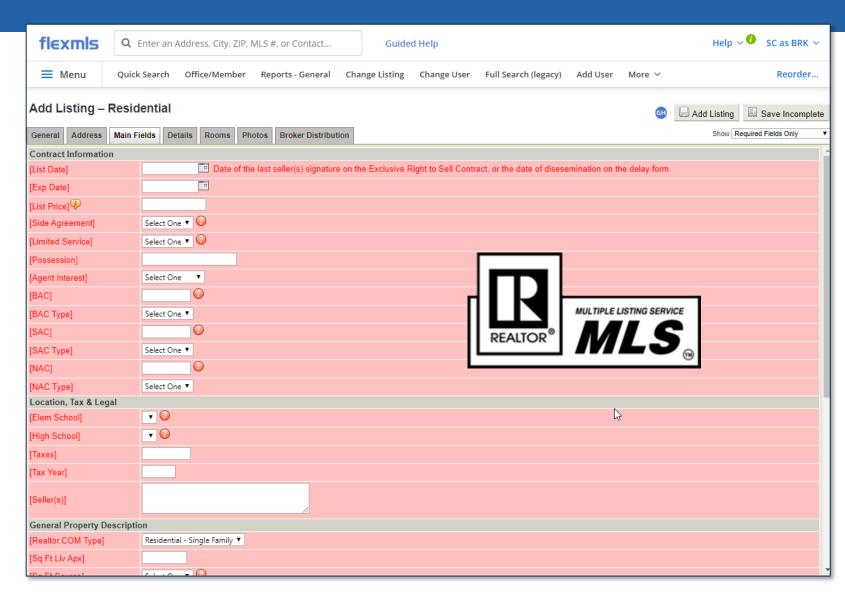


Set Coming Soon Status when adding a new listing Set Start Showing Date, < 7 days from list date

Showing Start Date CANNOT be changed once set. Listings already Active CANNOT be made Coming Soon



Mandatory Fields Required









Coming Soon

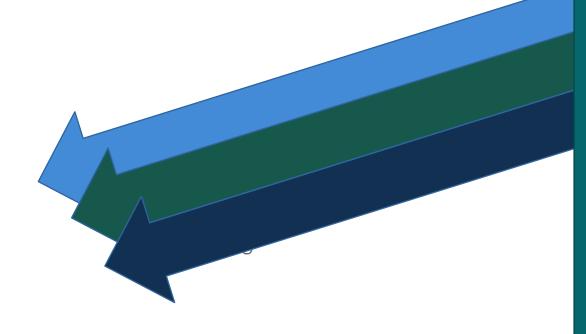
Where to Find Listings



How to Find Coming Soon Listings

Once the new status is enabled in the system, the dashboard will reflect the new status in multiple locations where statuses or events are displayed. For example, the My Listings gadget will display a row for Coming Soon status.

My Listings	:
My Auction Listings	28
My Contingent Take Backup Listings	1311
My First Right of Refusal Listings	30
My Active Listings	12262
My Pending Listings	4960
My Coming Soon Listings	90
My Withdrawn Listings	993
My Listings to Expire	540

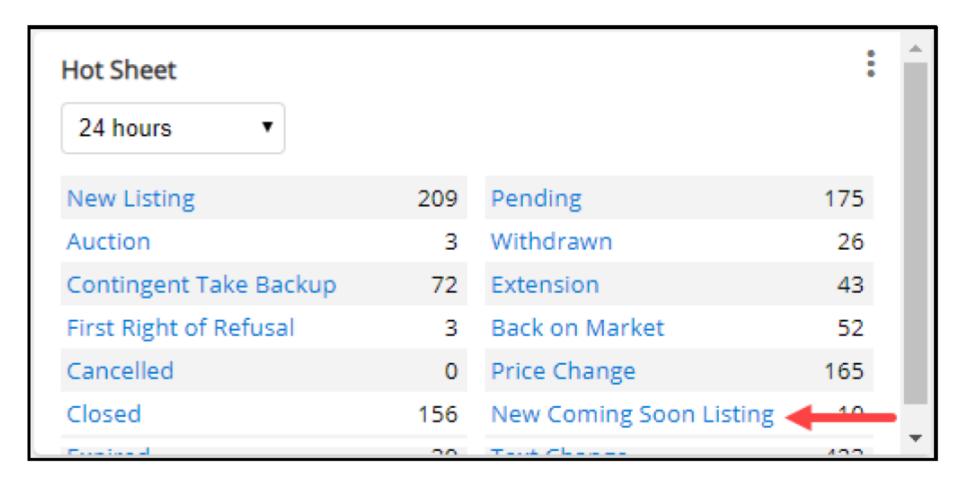




Added to Hotsheet

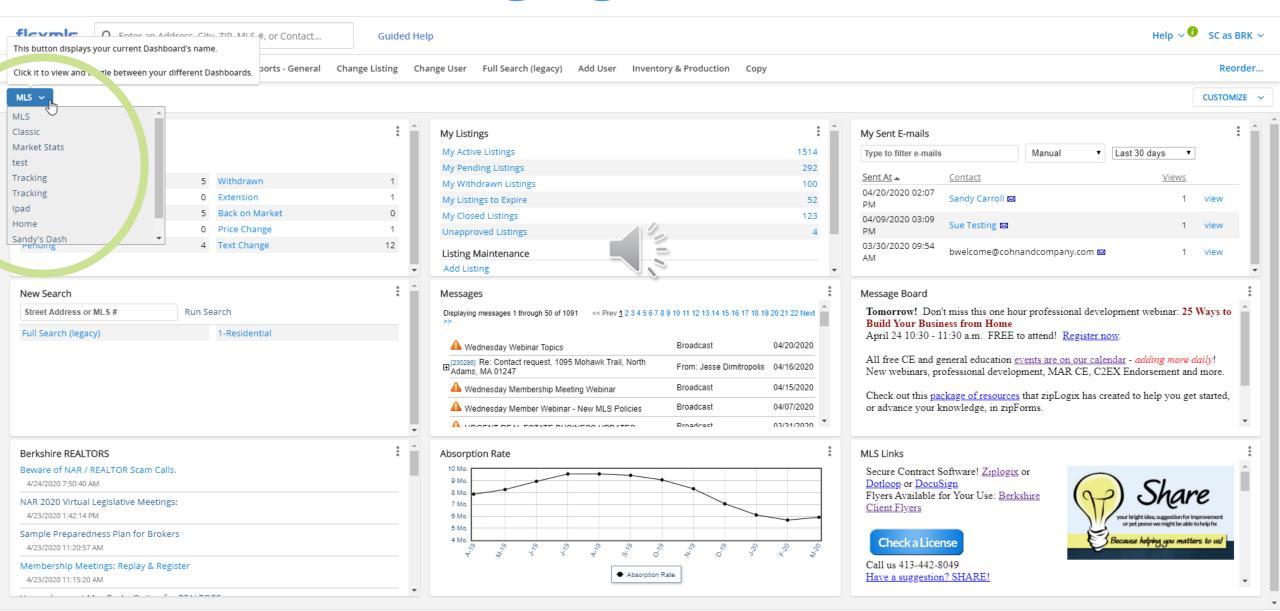


The Hot Sheet dashboard gadget will have a section for new Coming Soon listings.





Consider changing to MLS dashboard



Coming Soon Listings

Added to Search Criteria





You will also see a new option when searching by status.











Where do they go?

Seller Opt Out

- Seller Directs Listing to be Excluded from Internet
- Seller Directs Address to be Excluded from Internet
- Seller Directs Listing to Not Be Used in AVMs on Internet
- Seller Directs Listing to Not Allow Comments on Internet

Broker Listing Distribution Options

- Syndicate to iBerkshires
- Syndicate to ListHub Partners
- Syndicate to Realtor.com
- Syndicate to Zillow (includes Zillow, Trulia, HotPads and Stre

Broker Listing Distribution Reference URL

To Cooperating Brokers

On the dashboard, Searchable, on the Hotsheet and in push emails.

To Cooperating Broker's Buyer Clients

In FlexMLS search portals, in FlexMLS push email (if selected) and via manual email sending

To Syndication Sites

Using the Broker
Distribution tab when entering a listing, the agent has the power to select where the listing is shared.

To IDX Searches

If opted for, these listings can appear on other brokerages website IDX search

Plus any marketing or advertising venue the listing broker chooses.

EZIIIOW®



What's happening?

In accordance with NAR's Policy 8.0, <u>MLS Clear Cooperation</u>, Zillow will no longer be featuring manual Coming Soon listings. On April 30, 2020, the status of all active manual Coming Soon listings will be changed to off-market, and all pending manual Coming Soon listings will no longer be scheduled to appear on Zillow.

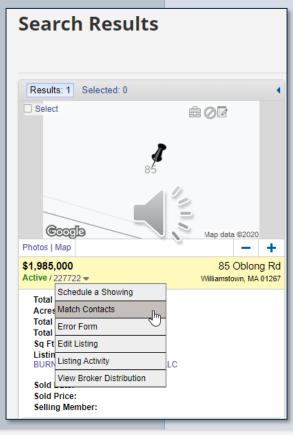
The only way to advertise a coming soon on Zillow is through an MLS or Franchise Feed.



Seller's Agents

You can use reverse prospecting to get a list of the brokers who have clients with matching criteria to your listing.

You can send them a private email to make sure they know!



Buyer's Agents

You can use the 'match contacts' feature on any listing to see what buyers in your contact list has criteria that matches the listing.

From the listing view, simply select "Match Contacts" to see if a new listing is a match!

Reverse Prospecting

Enter an MLS number from your listings to be reverse prospected.

Coming Listings

Advertising a Coming Soon Listing





O3 Provide Active / Start Showing Date in Ads



Quick Review of Ad Basics



- Advertisements by Broker, not sales agents.
- Must name Brokerage (if LLC, Corp or DBA)
- No "One Click" Rule in MA
- Teams follow agent rules
- Visible, clear, true.



Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations.



Massachusetts Chapter 93A, § 1 & 2: Makes it unlawful to use any unfair or deceptive acts or practices in connection with advertisements.



General Laws of Massachusetts Chapter 266, § 91:

Prohibits the use of advertisements that contain untrue, deceptive, or misleading statements or representations.



Patty & Bob, Parker Brown Team

Published by Hootsuite [?] - July 27 at 1:08pm - @

COMING SOON! We have a FANTASTIC New Listing At The Ranch!

This aesthetically appealing home at the Ranch combines the best of oldworld craftsmanship with modern design. This home is going to sell FAST! Find out about this listing BEFORE it hits the MLS.

For property photos, details and location, click on the photo below.





Jordan Giani, Keller Williams Roseville

, April 5 at 3:00pm · 🚱

COMING SOON: On Sunday, April 6th @ 1 p.m. We will begin showing this gorgeous home. Asking \$675,000 for this 3,244 square foot home with amazing backyard with pool, and newly painted exterior. This home has it all and priced to sell FAST! Call to make a showing appointment today.

Perfect for hot summer days. Presented by Jordan Giani with Keller Williams Roseville. Jordan Giani (916) 770-5549 for details.

http://www.jordanyarbrough.com/property/5491-fenton-way-granite-bay-ca-95746/



5491 Fenton Way, Granite Bay, CA 95746 - Jordan Yarbrough

Granite Bay home in Eureka school district with Roseville utilities. Features large bedrooms with master bedroom downstairs. Walk-in closets, patio, POOL!

JORDANYARBROUGH.COM



Be STRONG! Be ETHICAL! Be LEGAL!

Do not show the property to ANYONE during the coming soon period and do not allow your sellers to show the property.

Showing a property during Coming Soon or Delayed Listing Period Showing of a property while in delayed or coming soon status by any party, to any prospective purchaser while the listing is off the market status, in violation of the terms of the signed Addendum and the MLS Rules and Regulations clear cooperation policies.

- \$1,000, first offense
- Suspension from the MLS for 30-days, second offense
- Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.





O2 Submission of listings not ready for showing

Within two (2) Business
Days of Seller Signature or

Whichever Comes 1st!

Within one (1) Business

Day of Marketing

Available within 7 days
for showings



Delayed Listing:

NOT currently available for sale and WILL NOT be marketed until a future date.

What is a delayed listing



While the property is subject to an Exclusive Right to Sell with a participating firm, but the property is not ready to be placed on the active market at this time.

According to the Delayed Listing Addendum,

- the property shall NOT be marketed for sale in any way,
- the property shall NOT be available for showings by any party,
- the seller is not considering offers until an "Active Date" when prospective purchasers will learn about the property for sale.

The intent of a delayed listing is never to hide listing or get an in-house sale!

Breach of Fiduciary Duty

The intent of a delayed listing is never to hide listings



- Seller has determined the house is not ready for showings
- Professional Marketing Materials
 Are Being Created

- Seller is completing work on the House
- Seller wants to wait until a certain date to go active



STANDARD BERKSHIRE COUNTY MULTIPLE LISTING SERVICE EXCLUSIVE RIGHT TO SELL CONTRACT DELAYED LISTING ADDENDUM

1. PARTIES.	Seller(s) Name(s)			("SELLER")
	Mailing Address:			(PDDOVEDS)
	Broker / Corporation:			("BROKER")
	Property Address:			("Property")
CONTRACT REVISION: The Multiple Listing Service ("MLS") is hereby notified that the SELLER(s) of the property located above has/have been fully informed by the BROKER of all of the benefits of using MLS, are has/have requested that the BROKER DELAY MLS DISSEMINATION, PUBLICATION and MARKETING property, until(Active date). The BROKER shall enter the property details into the on the Active date and the 'Days on Market' (DOM) calculation will begin. The SELLER(s) and BROKER memutually agree to change the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of the Active date at any time, in writing, with a revised or new 'Delayed Listing Additional Control of				
the Multiple MLS. SELL	Listing Service, the	above referenced p R agree that the List	LLER(s) acknowledge that while the roperty <u>WILL NOT</u> have access to led Property <u>SHALL NOT BE MARI</u>	any of the benefits of the
	(2) There shall be N (3) There shall be N (4) There shall be N (5) There shall be N (6) There shall be N (7) There shall be N	O public or broker op O display of the Liste O sharing of the Liste O placement of a "Fo O marketing of the Li O sharing of informat	arty, of the Property to prospective pu en house/tours held; d Property on any Internet site; ed Property on social media r Sale" sign on the Listed Property; a sted Property in any print, electronic of ion regarding the Property to brokers es available for all brokers and their of	nd or email advertisements. outside of the listing
	d to enter the listing		any time before the Active date, the t the Berkshire Multiple Listing Service	
	•	E SHOWN in-person agents, during the Del	to prospective buyers by anyone, incayed period.	cluding by the SELLER,
		orm and this form mus lays of SELLERs sign	t be submitted with the Exclusive Rig ature.	ht to Sell Agreement to
			IOT UNDERSTOOD, SEEK LEGAL C ment and hereby acknowledges receipt	
SELLER:		DATE	AUTHORIZED BROKER	DATE
			_ For:	
SELLER:		DATE	BROKERAGE NAME	



Read it!



Legal Landmine



Providing showing or access to a limited group of buyers or agents without seller's lawful direction circumvents MLS duty to cooperate, harms other participants and their exclusive representation obligations of their buyer clients, and potentially consumers who are denied representation or access.



It is especially dangerous if you are financially gaining (in-house sale) while your seller, to whom you owe undivided loyalty, is harmed.

Dual Agency, A Cautionary Tale



Dual agency is legal in New York State, but only under the condition that the agent receive "informed consent" from the buyer or seller — defined as "lay[ing] bare the truth, without ambiguity or reservation, in all its stark significance."

Critics, however, argue that dual agenc, frequently opens the door to obvious conflicts of interest, and it becomes more complicated when it's not a case of one broker representing both buyer and seller, but rather, a case of two brokers at the same firm working on the same sale from opposite sides.

In those cases, the firm itself is legally considered one, dually acting "agent," and the degree to which the two brokers are collaborating on the sale is far less clear.





The listing's Days on Market (DOM) will begin counting when the listing is entered as "Active" status in FlexMLS.



Where do they go?

No where! There is NO marketing of Delayed Listings

MLS Process



The listing agreement and addendum shall be emailed to the MLS Office but is not entered into the MLS database until the "Active Date" indicated or within 1 day of public marketing, whichever comes first. Delayed listings are governed by additional rules shown in this policy.





Listings@BerkshireRealtors.org

If any property is marketed in any way by any party, the Participant is obligated to submit the full listing according to the above electronic submission rules within 1 business day into the MLS database for cooperation and compensation with the members of the Berkshire MLS.



Be STRONG! Be ETHICAL! Be LEGAL!



Showing a property during Coming Soon or Delayed Listing Period Showing of a property while in delayed or coming soon status by any party, to any prospective purchaser while the listing is off the market status, in violation of the terms of the signed Addendum and the MLS Rules and Regulations clear cooperation policies.

- \$1,000, first offense
- Suspension from the MLS for 30-days, second offense
- Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.



Office Exclusive / Refusal to List in MLS:

Available for sale to listing office clients only and NOT be marketed

What is an Office Exclusive?





The property is not to be marketed for sale in any way according to the Office Exclusive Addendum, rather....

the seller has requested the property be PRIVATELY sold via the listing brokerage's network of affiliated buyers.





Pocket Listing – "slang term for not in MLS"

Some pocket listings are ethical, some are not.

It is acceptable to withhold property from the MLS when:

- It is at the express direction of the seller and;
- The seller wants to limit the marketing of the property (for privacy or personal reasons) and;
- The seller understands that limited exposure means a limited buyer pool and that in turn may affect the amount and terms of offers received to purchase the property.

It is NEVER acceptable to withhold property from the MLS when:

- The seller doesn't initiate the discussion
 about limited market exposure
- The seller doesn't understand the potential consequences of limited market exposure
- If the property is withheld, even initially, in the hopes to secure a quick sale without seller's understanding
- If the property is withheld to avoid the obligation to share in the commission with a cooperating broker



Discouraging sellers from listing property in the MLS is inconsistent with the fundamental cooperative nature of the MLS, the obligations to the Code of Ethics and in some cases, the fiduciary duties you owe to your clients to promote and protect their best interests.



Legal Landmine

Real Estate

Limit exposure to legal liability:

- Firms should only accept Office Exclusive / Refusal to List when the desire for NO MARKETING IS REQUESTED BY THEIR SELLER...
- When it is a clear, lawful direction and with their full understanding and consent of the ramifications.





It is especially dangerous if you are financially gaining (in-house sale) while your seller, to whom you owe undivided loyalty, is harmed.



PRIVATE

PROPERTY

NO SOLICITING NO TRESPASSING Seller's desire for privacy / confidentiality, or a desire to limit or restrict access.

Not concerned with property exposure or obtaining the highest price.



STANDARD BERKSHIRE COUNTY MULTIPLE LISTING SERVICE EXCLUSIVE RIGHT TO SELL CONTRACT ADDENDUM OFFICE EXCLUSIVE / REFUSAL TO LIST PROPERTY IN MLS

.PARTIES	Seller Name(s)	("SELLER")
	Broker Name	("BROKER")
	Address	("Property")

- 2. <u>CONTRACT REVISION</u>: The Multiple Listing Service ("MLS") is hereby notified that the SELLER(s) of the property located above has been fully informed by the BROKER of all of the benefits of using MLS, and does not wish their property listed for sale through the Multiple Listing Service of the Berkshire County Board of REALTORS®, Inc. under the following conditions:
 - □ The SELLER(s) has/have requested that, for the entire duration of the exclusive contractual agreement, the BROKER <u>DOES NOT DISSEMINATE OR PUBLISH</u> this property information publicly in any manner, including the Berkshire MLS, online or in any form of marketing. The SELLER instead directs the BROKER to solicit interest exclusively from the Brokerage's network of buyers.
 - 3. <u>SELLER ACKNOWLEDGEMENT</u>: SELLER(s) acknowledge that while the property is withheld from the Multiple Listing Service, the above referenced property <u>WILL NOT</u> have access to any of the benefits of the MLS.
 - I understand that the MLS is the largest, most comprehensive source for sharing property internation with other REALTORS® and their buyers in the Berkshire County and surrounding region. I understand that the national average of listings sold by other REALTORS® is 87%.
 - I understand that limiting exposure of my property will substantially limit the number of potential, qualified buyers who know that the home is available for sale, and such limitations could impact the offers I receive.
 - I understand that should any party, SELLER or BROKER publicly market my property in any manner, BROKER is obligated to enter the property listing details, with at least one photo, into the MLS.
 - I understand that my property will not be included in the MLS broker tour schedule, the public open house schedule and broker-to-broker message board, nor shared with brokers outside of the listing firm.

SELLER(s) further acknowledge and agrees;

- . That the decision to withhold the Property from the MLS was solely my decision and initiated by me.
- That the BROKER is obligated by the Code of Ethics of the National Association of REALTORS® to cooperate
 and work with other REALTORS® except when cooperation is not in your best interest.
- That the BROKER has not made an offer of compensation to other brokers in the MLS for securing a buyer
 for this property. This does not preclude the BROKER from choosing to do so individually, provided the
 amount of compensation and company policy regarding the payment of compensation, if any, is disclosed to
 you at the time of entering into the Exclusive Right to Sell Agreement.

Addendum:

If any property is marketed in any way by any party, the Participant is obligated to submit the full listing according to the above electronic submission rules within 1 business day into the MLS database for cooperation and compensation with the members of the Berkshire MLS.

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I request that my property not be placed in the Multiple Listing Service (MLS).

MLS Process



The listing agreement and addendum shall be emailed to the MLS.

If there is ANY marketing of this listing in any way, it shall be entered into the MLS system within one (1) day of such marketing.



This entry MUST include an offer of cooperation and compensation.



Listings@BerkshireRealtors.org



	Туре	Policy Violation	Fine
	New Listing Entry In MLS: Active & Coming Soon Status Listings	Failure to submit ALL mandatory listing information for dissemination to the MLS membership within 2 business days of the seller's signature OR 1 business day of marketing, whichever comes first. Mandatory entry include submission of electronic listing data, at least 1 primary photograph, Lead Paint Property Transfer Notification (when required), Exclusive Right to Sell Agreement and Coming Soon Addendum (when applicable).	 \$50 / day (up to 5 days late), first offense \$150 / day (up to 5 days late) second offense Fines for listings more than 5 days late or a third offense will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.
	Delayed or Off-MLS Office Exclusive Listings:	Failure to email the Exclusive Right to Sell agreement with the Delayed Listing Addendum or the Off MLS Office Exclusive Addendum within two (2) business days of the seller's signature. (Listings@BerkshireRealtors.org)	\$10 First offense \$25 Second offense Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.
	Showing a property during Coming Soon or Delayed Listing Period	Showing of a property while in delayed or coming soon status by any party, to any prospective purchaser while the listing is off the market status, in violation of the terms of the signed Addendum and the MLS Rules and Regulations clear cooperation policies.	 \$1,000, first offense Suspension from the MLS for 30-days, second offense Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.
	Failing to properly advertise a Coming Soon listing	Failing to identify a coming soon listing with the coming soon description and the date the property is to be made available for showings.	 \$250 first offense \$500 second offense Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.

	Туре	Policy Violation	Fine	
	Status Changes	Failure to submit Active Contingent UA flag (provided the agent is continuing to show the property) or change to Pending status within two (2) days of seller(s) execution of the Purchase and Sale Agreement (and delivery of earnest money if required) or change status to sold with full sold details within two (2) business days of a closing	\$100 First and Second Offense More than two failures to report a status change will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.	
	Modification Paperwork:	On recently expired listings (under 30 days), failure to submit the Exclusive Right to Sell Modification or Agreement with the new MLS# within two (2) business days of the seller's signature.	\$10 First offense \$25 Second offense Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.	
iao	Submitting a listing without a signed Exclusive Right to Sell Agreement or Modification to Extend.	Submitting a listing without a signed Exclusive Right to Sell Contract or without a Modification of Listing form extending the contract beyond the original term.	Withdrawal of listing, plus \$50 First offense \$150 Second offense Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.	
	No Documents Received when Requested	Failure to provide the Board Office with hard copy documentation when requested, by 5:00 p.m. of the next business day.	\$100 and withdrawal of the listing from MLS 5+ days no response, and the matter will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.	
	DOM / History Manipulation	Adjusting of DOM or masking of listing history via manipulation of listing date, address or by any other means	Warning for First offense \$50 Second offense \$150 Third offense Additional offenses will be administratively assessed after a hearing with the MLS Board, the Participant, and the offending user; per Section 7 of the Rules and Regulations.	



Frequently Asked Questions...

Can a delayed listing come on to the market as a coming soon listing?

Yes. Though probably not aften, if a seller was busy preparing their home for sale (with no public marketing), and then would like to build marketing buzz with a coming soon status can do so... but is not required.



Can a coming soon or delayed listing go on the MLS as pending?

No. The MLS is for active listings that are available for showing and accepting offers. If you want to share the sold data for comparable purposes, you can do so after it's closed.

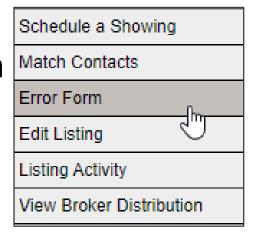




Who are the police?

Well, you are all deputies in the MLS, so share any issues you see in the marketplace with the Board Office staff as usual, and we will make sure these rules are enforced uniformly.

Use the Error Form or email / call the Board Office Staff.



Do I have to allow a physical showing if it's active, or is a virtual tour enough?

The MLS rules indicate your property must be available for showing How soon? Within a reasonable time. (During COVID only, we are accepting "virtual" showings to satisfy this requirement. After the State of Emergency, you will have to provide physical property showings to list it in the MLS.



What happens if I find out my seller shared their property on Facebook while it's not on the market in MLS?

Enter it in the MLS right away, otherwise you will be subject to a HUCE fine. It is the obligation of the Participant to adhere to the rules if you are choosing to be a member that requires the same rules for all other brokers... The Addendum to the Exclusive Right to Sell agreement spells this out clearly for the seller.



Why can you extend the delayed listing time but not the coming soon time?

Because the coming soon listing has been shared with the public. It ensures we are adhering to Massachusetts Consumer Protection "truth in advertising" laws.

Buyer's have been told when the listing is coming on the market, and it must come on, or you may have to defend that in court.

Delayed listings have no public exposure so the date available can be sooner or later, as long as all of the other rules are followed.





Have more? Sandy@BerkshireRealtors.org

BerkshireRealtors.net/clear-cooperation/

Clear Cooperation

Updated Copy of the MLS Policies:



Rules and Regulation Changes

Forms:

- Coming Soon Addendum
- · Delayed Listing Addendum
- · Office Exclusive Refusal to List Addendum
- Participant Authorization for Use of Coming Soon Status

Need Help?

Email Sandy@BerkshireRealtors.org or call 413-442-8049 (leave a message for immediate call back)





Clear Cooperation Policy



And Multiple Listing Service, Inc.





