

**GRAND JUNCTION AREA REALTOR ASSOCIATION
BYLAWS PROVISIONS AUTHORIZING
MULTIPLE LISTING SERVICE OPERATED BY A
COMMITTEE**

Revised April 3, 2018

Approved April 12, 2018 by the GJARA Board of Directors

Section 1 - Authority: The association of REALTORS® shall maintain for the use of its members a multiple listing service, which shall be subject to the bylaws of the association REALTORS® and such rules and regulations as may be hereinafter adopted.

Section 2 - Purpose: A multiple listing service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, or in other agency or non-agency capacities defined by law); by which cooperation among participants is enhanced: by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of sale (or lease). *(Amended 11/04)*

Section 3 - Participation: Any REALTOR® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.* However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other participants or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property** Use of information developed by or published by an association's multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized users are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing services where access to such information is prohibited by law. *(Amended 11/08)*

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval within thirty (3) days after access has been provided. *(Amended 11/96)*

Associations are not required to establish prerequisites for MLS participation beyond holding REALTOR (principal) membership in an association. However, if the association wishes to establish these requirements for MLS participation or for access to MLS-

generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established. (Amended 2/94)

**Generally, associations of REALTORS, when there is more than one principal in a real estate firm, define then chief principal officer of the firm as the MLS participant. If each principal is defined as a participant, then each shall have a separate vote on MLS matters. Brokers or salespersons other than principals are not considered participants in the service but have access to and use of the service through the principal(s) with whom they are affiliated.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant, as long as the level of service satisfies state law. (Amended 11/08)

The key is that the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants. (Amended 11/08)

Note 1: The requirements of (1) no record of recent or pending bankruptcy; (2) no record of official sanctions involving unprofessional conduct; and (3) completion of a course of instruction on the MLS rules and regulations and computer training related to MLS information entry and retrieval may be deleted from this section at the option of

each association. In states where law requires non-association members be admitted to the MLS of an association of REALTORS, any limitations or restrictions imposed on participation or membership shall be no more stringent than permissible under the National Association's membership qualification criteria. However, in states where non-association member access to the MLS is not a requirement of state law, associations may, at their discretion, establish additional qualifications for non-association member participation and membership in the MLS. (Amended 11/96)

Note 2: An association may also choose to have the membership committee consider the following when determining a nonmember applicant's qualifications for MLS participation or membership:

- *all final findings of Code of Ethics violations of other membership duties in any other association within the past three (3) years**
- * pending ethics complaints (or hearings)**
- * unsatisfied discipline pending**
- * pending arbitration requests (or hearings)**
- * unpaid arbitration awards or unpaid financial obligations to any other association or association MLS.**

Section 4 - Supervision: The activity shall be operated under the supervision of the multiple listing committee in accordance with the rules and regulations, subject to the approval of the board of directors of the association of REALTORS®.

Section 5 - Appointment of Committee: The MLS Chairman shall appoint, subject to confirmation by the board of directors a multiple listing committee to be comprised of no less than five (5) REALTOR® members, and one (1) licensed appraiser. MLS input secretaries and CEO are not eligible to vote. All members of the committee shall be REALTOR® Associates in the multiple listing except, at the option of the local association, REALTORS® affiliated with participants may be appointed to serve in such numbers as determined by the local association.

The committee members so named shall serve two-year staggered terms. *Associations have the option to establish a longer or shorter term for service on the committee and need not provide for staggered terms for committee appointments. (Adopted 11/96) When the member of the committee finishes their two terms they can sit out for one (1) year before applying again as a voting committee member. The chairperson will be appointed by the Chairman of the Grand Junction Area REALTOR® Association each year.

Section 6 - Vacancies: Vacancies in unexpired terms shall be filled as in the case of

original appointees.

Section 7 - Attendance: Any committee member who fails to attend three (3) consecutive regular or special meetings of the committee, without excuse acceptable to Chairperson of the committee shall be deemed to have resigned from the committee and the vacancy shall be filled as herein provided for original appointees.

Section 8 – Subscribers: Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with participants. (*Optional provision:* Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of an MLS participant or the participant’s licensed designee.) (Adopted 4/92)