

**CAROLINA MULTIPLE LISTING SERVICES, INC. (CMLS)
ADVISORY GROUP MEETING
AGENDA – Mar. 21
*Room 305 – 9-11 a.m.***

CMLS ADVISORY GROUP ROSTER

Lee Allen, co-chair Matt Reyes, co-chair

Michael Baker	Tracy Gregg	Warren Moss	Debbie Smith
Shantae Brown	Joan Hoffman	Jeff Polinsky	Lyn Stout
Bob Bunzey	Rufus Hutchinson	Elaine Price	Sarah Szczodrowski
Melanie Coyne	Amanda Jones	Carol Richards	Lori Turner
Allen Dargins	Mona Lisa Matthews	Mary Ross	Chip Wilson
Jo Ann Doyle	Melanie McKelvey	Lisa Satterfield	
Mel Ediger	Tim Miller	Billy Shugart	
Anne Fox	Jeff Monfils	David Sinclair	

STAFF

Steve Byrd	Debbie Wey	Sara Earles
Bryan Perkins	LaVerne Williams	

1. Call to order
2. Greening the MLS
3. Feedback regarding Fusion Mobile
4. "Subject to HOA=Y/N"
5. CMLS definition for "Total Bedrooms"
6. CMLS term and definition for "In Foreclosure Process"
7. Email from Jim Kluth, Countryside Properties
8. CMLS suggestions from members
 - Sylvia Short, Century 21 Hawkins Realty (Assistant)
 - Cathy Burns, Cathy Burns Real Estate, Inc.
 - Allen Dargins, Realty Resources of the Carolinas
 - Christi Gallagher, RE/MAX Properties
 - AW Meyers, Greenfield Realty LLC

Dates to remember:

Mar. 23: Broker-in-Charge Briefing: Avoiding Copyright Calamities***

Apr. 2: 2nd Quarter MLS and/or Supra Key Fees are due by 5 p.m.

Apr. 18: CMLS Advisory Group, 9 a.m.

Apr. 20: Realtors® Care Day. Online registration now available!



Carolina Multiple Listing Services, Inc.

CHARLOTTE REGIONAL REALTOR® ASSOCIATION

MEMORANDUM

TO: CMLS Advisory Group
FROM: Debbie Wey
DATE: March 20, 2012
SUBJ.: "Greening the MLS"

The "Greening the MLS" Work Group met on Feb. 10, 2012 and recommended the following enhancements to the CMLS System to further provide opportunities for eco-friendly and energy efficient properties to be adequately described and searched, and to provide the green certificate for appraisers to access in support of their appraisals.

"Green Certification" field

The words "Energy Star" in the "Green Certification" field will be changed to "Energy Star Qualified." Energy Star partners may install Energy Star appliances but do not receive certification; only properties that have been certified can be denoted as "Energy Star Qualified."

If a "Green Certification" is denoted in the listing, then the certificate must be attached to the listing. If a certificate is not attached to the listing, then the "Green Certification" will be removed. This will not result in a violation of the MLS rules and no fines will be imposed.

- **New construction listings:** the green certification must be attached to the listing upon reporting the listing as "Closed" status.
- **Resale listings:** the green certification must be attached to the listing at the time the listing is input into the MLS System.

Green Building Features

The “Greening the MLS” Work Group agreed upon a list of 25 ecofriendly/energy-efficient items. Some of these items currently exist in the CMLS System in the “HVAC,” “Water Heater” and other fields. The list of 25 items comprises features available in the Triangle MLS and Brunswick County Association of Realtors®.

1. Adv. Framing/Concrete Const.
2. Dual Flush Toilets
3. Energy Star® Clothes Washer
4. Energy Star® Dishwasher
5. Energy Star® Freezer
6. Energy Star® HVAC
7. Energy Star® Refrigerator
8. Energy Star® Light Fixtures
9. Engineered Wood Products
10. Fresh Air Ventilation
11. Geo Ther. Heat Sys. (Clsd Loop)
12. Infill Lot
13. Low Flow Fixtures
14. No-Low VOC/Paints, Sealants, Varn
15. Photovoltaic – Solar Power
16. Programmable Thermostat
17. Radiant Heated Floors
18. Rainwater Catchment
19. Recycled Const/Household Waste
20. Sealed Combustion Firepl/Woodst
21. Sealed Crawl Space
22. Solar Hot Water
23. Spray Foam Insulation
24. Sustainable Flooring
25. On-Demand Water Heater
26. Xeriscaping-Drought Resist. Pln

Following the meeting, the work group considered by email the following three options provided by CMLS staff regarding how the 25 items above could be implemented in the MLS System.

Option 1: Assimilate the list of 25 items into existing fields where appropriate, and create one new field called “Green Building Features” for items that cannot be assimilated into existing fields.

- Keep the ecofriendly/energy-efficient items that are in the “HVAC” and “Water Heater” fields where they are.
- Assimilate the other new, agreed-upon features that fit within the existing feature groups such as “HVAC,” “Water Heater,” “Interior Features,” “Lot Description,” “Exterior Features,” “Foundation,” “Equipment” and “Floor Coverings.”
- The few remaining new, agreed-upon features that cannot be assimilated into existing feature groups will be added to the system under the new “Green Building Features” field.

Pros: Option 1 is the easiest to implement.

Cons: The disadvantage to Option 1 is that it will be harder for the public to easily identify features that are green/energy-efficient. It could make it harder for third-party websites to accentuate green listings (if any of them are even doing it).

Exterior Features [N]	Screen Door(s)	MultiZone A/C	Cooktop Gas	Marble
Boat House	Storm Door(s)	MultiZoneHeat	Dual Flush Toilets	Parquet
Boat Lift	Storm Window(s)	N/A	Dishwasher	Prefinished Wood
Boat Slip		No A/C	Disposal	Slate
Boat Slip (Deed)	Foundation [N]	Oil Floor Furnace	Double Oven	Sustainable Flooring
Boat Slip (Lease/License)	Basement	Oil Hot Air	Electric Dryer Hookup	Vinyl/Linoleum
Building-Greenhouse	Crawl Space	Oil Space Heater	Electric Range/Oven	Wall-to-wall Carpet
Building-Auto Shop	Sealed Crawl Space	Oil Steam Heat	Energy Star® Light Fixtures	Wood
Building-Barn	Slab	Oil Water Heater	Energy Star Clothes Washer	Other
Building-Storage	None	On-Demand Water Heater	Energy Star Dishwasher	
Shed/Ot/bldg.	Other	(This should be under Water/Heater)	Energy Star Freezer	Green Certification [N]
Building-Workshop		Water/Heater	Energy Star Refrigerator	EarthCraft House
Deck	Lot Description [N]	Passive Solar Heat	Exhaust Fan	Energy Star
Enclosed Patio	Corner Lot	Programmable Thermostat	Gas Dryer Hookup	Environments for Living
Equestrian Facilities	Cul-de-sac Lot	Radiant Heat	Gas Range/Electric Oven	LEED Home
Fenced Yard	Golf Course View	Wall Unit - AC	Gas Range/Oven	NAHB National
Floating Dock	Infill Lot	Wall Unit Heat	Grilltop	GreenBuilding
Hot Tub	Mountain View	Window Unit	Ice Maker Connection	Standard
In-Ground Gas Grill	On Golf Course	Sealed Combustion	Intercom	N.C. Healthy Built Home
In-Ground Irrigation	Waterfront	Fireplace/Woodstove	Low Flow Fixtures	None
Outdoor Fireplace	Waterview	None	Microwave	
Patio		Other	Network Ready	HERS Index [N] 0-100
Pier	HVAC [R]	Water Heater [R]	Range/Hood	
Pool-Above Ground	Active Solar Heat	Electric	Refrigerator	Green Building Features [N]
Pool-in-Ground	Central Air	Gas	Security System	Adv. Framing/Concrete Const.
Porch	Electric Baseboard Heat	Solar	Self Cleaning Oven	Engineered Wood Products
Porch-Glass	Electric Hot Air	None	Smoke Detector	No-Low VOC/Paints, Sealants, Varn
Porch-Screened	Energy Star HVAC	Other	Surround Sound	Photovoltaic – Solar Power
Private Pond	Fresh Air Ventilation		Trash Compactor	Recycled Const/Household Waste
Rainwater Catchment	Gas Floor Furnace	Equipment [R]	None	Spray Foam Insulation
Sauna	Gas Hot Air	Cable Prewire	Other	Xeriscaping-Drought Resist. Plants
Tennis Courts	Gas Space Heater	Ceiling Fan(s)		
Terrace	Gas Steam Heat	Central Vacuum	Floor Coverings [N]	
Other	Gas Water Heater	CO Detector	Brick	
	Geothermal Ht.	Convection Oven	Ceramic Tile	
Doors and Windows [N]	Heat Pump - AC	Cooktop Electric	Concrete	
Insulated Windows	Heat Pump - Heat		Laminate	

Option 2: Create one new field called “Green Building Features.” This field will contain all of the new pick list items, and the features that already exist in other fields will be moved to the new “Green Building Features” field.

Pros: It will be easy for brokers to identify the green building features on reports and for consumers to search on websites.

Cons: Subscribers will need to learn to look for the “Green Building Features” field when adding/editing listings for energy-efficient/ecofriendly “HVAC” and “Water Heater” features.

It is possible that the “Green Building Features” field will be overlooked because the recommendation is for this new field to be an optional field (i.e., not required).

The “Green Building Features” pick list has the potential to grow very large as more green building features emerge in this market. When the “green” phase passes, and it becomes the standard for all construction, having a separate field for green building features could be something that we might regret if we decide to later assimilate the green building feature pick list items into the “HVAC” and “Water Heater” fields.

Option 2 will be more difficult to implement than Option 1 because it will require remapping data from existing fields to the new “Green Building Features.”

Exterior Features [N]	Storm Window(s)	Oil Steam Heat	Ice Maker Connection	HERS Index [N] 0-100
Boat House		Oil Water Heater	Intercom	Green Building Features [N]
Boat Lift	Foundation [N]	On-Demand Water Heater	Microwave	Adv. Framing/Concrete Const.
Boat Slip	Basement	Passive Solar Heat	Network Ready	Engineered Wood Products
Boat Slip (Deed)	Crawl Space	Radiant Heat	Range/Hood	No-Low VOC/Paints, Sealants, Varn
Boat Slip (Lease/License)	Slab	Wall Unit - AC	Refrigerator	Photovoltaic – Solar Power
Building-Greenhouse	None	Wall Unit Heat	Security System	Recycled Const/Household Waste
Building-Auto Shop	Other	Window Unit	Self Cleaning Oven	Spray Foam Insulation
Building-Barn		Woodstove	Smoke Detector	Xeriscaping-Drought Resist. Plints
Building-Storage	Lot Description [N]	None	Surround Sound	Rainwater Catchmen
Shed/Otldg.	Corner Lot	Other	Trash Compactor	Sealed Crawl Space Infill Lot
Building-Workshop	Cul-de-sac Lot	Water Heater [R]	None	Active Solar Heat
Deck	Golf Course View	Electric	Other	Energy Star HVAC
Enclosed Patio	Mountain View	Gas	Floor Coverings [N]	Fresh Air Ventilation
Equestrian Facilities	On Golf Course	Solar	Brick	Geothermal Ht.
Fenced Yard	Waterfront	None	Ceramic Tile	On-Demand Water Heater
Floating Dock	Waterfront	Other	Concrete	(This should be under Water/Heater)
Hot Tub	Waterview		Laminate	Passive Solar Heat
In-Ground Gas Grill		Equipment [R]	Marble	Programmable Thermostat
In-Ground Irrigation	HVAC [R]	Cable Prewire	Parquet	Radiant Heat
Outdoor Fireplace	Active Solar Heat	Ceiling Fan(s)	Prefinished Wood	Sealed Combustion Fireplace/Woodstove
Patio	Central Air	CO Detector	Slate	Solar Water Heater
Pier	Electric Baseboard Heat	Convection Oven	Vinyl/Linoleum	Dual Flush Toilets
Pool-Above Ground	Electric Hot Air	Cooktop Electric	Wall-to-wall Carpet	Energy Star® Light Fixtures
Pool-in-Ground	Gas Floor Furnace	Cooktop Gas	Wood	Energy Star Clothes Washer
Porch	Gas Hot Air		Other	Energy Star Freezer
Porch-Glass	Gas Space Heater	Dishwasher	Green Certification [N]	Energy Star Refrigerator
Porch-Screened	Gas Steam Heat	Disposal	EarthCraft House	Low Flow Fixtures
Private Pond	Gas Water Heater	Double Oven	Energy Star	Sustainable Flooring
Sauna	Geothermal Ht.	Electric Dryer Hookup	Environments for Living	
Tennis Courts	Heat Pump - AC	Electric Range/Oven	LEED Home	
Terrace	Heat Pump - Heat	Exhaust Fan	NAHB National	
Other	MultiZone A/C	Gas Dryer Hookup	GreenBuilding	
	MultiZoneHeat	Gas Range/Electric Oven	Standard	
Doors and Windows [N]	N/A	Gas Range/Oven	N.C. Healthy Built Home	
Insulated Windows	No A/C	Grilltop	None	
Screen Door(s)	Oil Floor Furnace			
Storm Door(s)	Oil Hot Air			
	Oil Space Heater			

Option 3: Create six new fields (smaller groupings of features) that can be implemented in close proximity to existing fields. For example, a new field called “Green/Sustainable Construction” would come immediately following “Exterior Construction.” These are the six new field names:

“Green Energy Efficient:” a pick list of general green attributes such as energy efficient doors or appliances without naming specific elements whose efficiency rating wanes over time.

“Green Energy Generation:” a pick list of methods of generating energy such as solar, wind or geothermal.

“Green Sustainability:” a pick list of sustainable elements used in the construction of the structure.

“Green Water Conservation:” a pick list of general water-conserving attributes of the property such as landscaping or reclamation.

“Green Indoor Air Quality:” a pick list of indoor air quality measures.

“Green Location:” a pick list describing efficiencies involved with the property’s location such as walkability or transportation proximity.

Pros: Option 3 allows similar feature groups to be located close together.

Option 3 reduces the number of pick list items in each group which provides users with the ability to pick more items when necessary, or to bypass the field if it is not relevant.

The six field names came from the Real Estate Standards Organization (RESO) that defines RETS (Real Estate Transaction Standard). Option 3 provides the industry-wide framework for IDX vendors and third-party websites to integrate CMLS data into public-facing websites.

Cons: Option 3 would also require remapping data from existing fields to the new fields.

It will also take up more space on reports due to additional field labels appearing on reports.

Exterior Construction [R]		No-Low VOC/Paints Sealants Varn Recycled Const/Household Waste	Lot Description [N]	HVAC [R]
Aluminum	Stone		Corner Lot	Active Solar Heat
Asbestos	Synthetic Stucco		Cul-de-sac Lot	Central Air
Brick Veneer Full	Vinyl		Golf Course View	Electric Baseboard Heat
Brick Veneer Partial	Wood		Mountain View	Electric Hot Air
Cedar Shake	Green/Sustainable Construction [N]	Doors and Windows [N]	On Golf Course	Gas Floor Furnace
Concrete Block	Sustainable Flooring	Insulated Windows	Waterfront	Gas Hot Air
Fiber Cement	Adv. Framing/Concrete Const.	Screen Door(s)	Water view	Gas Space Heater
Hard Stucco	Engineered Wood Products	Storm Door(s)	Green/Location [N]	Gas Steam Heat
Hardboard Siding		Storm Window(s)	Infill Lot	Gas Water Heater
Log				Geothermal Ht.
Rough/Sawn				Heat Pump - AC
Shingle				Heat Pump - Heat

MultiZone A/C	Green/Energy Generation [N]	Low Flow Fixtures	CO Detector	Other
MultiZoneHeat	Solar Water Heater [From	Rainwater Catchment	Convection Oven	Fixtures Exception [N]
N/A	Water	Xeriscaping-Drought Resist.	Cooktop Electric	Yes No
No A/C	Heater]	Plints	Cooktop Gas	
Oil Floor Furnace	Sealed Combustion	Green/Energy Efficient	Dishwasher	Fixtures Exception Desc. [N]
Oil Hot Air	Fireplace/Woodstove	Attributes [N]	Disposal	[R if Fixtures Exception = Y]
Oil Space Heater	[From	Energy Star® Light Fixtures	Double Oven	
Oil Steam Heat	HVAC]	Energy Star® Clothes	Electric Dryer Hookup	
Oil Water Heater	Passive Solar Heat [From	Washer	Electric Range/Oven	
On-Demand Water Heater	HVAC]	Energy Star® Dishwasher	Exhaust Fan	Green Certification [N]
Passive Solar Heat	Geothermal Ht. [From	Energy Star® Freezer	Gas Dryer Hookup	EarthCraft House
Radiant Heat	HVAC]	Energy Star® HVAC	Gas Range/Electric Oven	Energy Star
Wall Unit - AC	Active Solar Heat [From	Energy Star® Refrigerator	Gas Range/Oven	Environments for Living
Wall Unit Heat	HVAC]	Insulated Windows [From	Grill top	LEED Home
Window Unit	Photovoltaic – Solar Power	“Doors and Windows”]	Ice Maker Connection	NAHB National
Woodstove	Green/Indoor Air Quality [N]	Programmable Thermostat	Intercom	GreenBuilding
None	Sealed Crawl Space	Radiant Heat [From HVAC]	Microwave	Standard
Other	Fresh Air Ventilation	Spray Foam Insulation	Network Ready	N.C. Healthy Built Home
Water Heater [R]	Green/Water Conservation [N]	On-Demand Water Heater [From HVAC]	Range/Hood	None
Electric	Dual Flush Toilets	Equipment [R]	Refrigerator	HERS Index [N] 0-100
Gas		Cable Prewire	Security System	
Solar		Ceiling Fan(s)	Self-Cleaning Oven	
None		Central Vacuum	Smoke Detector	
Other			Surround Sound	
			Trash Compactor	
			None	

The results of the email discussion among the work group are provided below.

Deb McConaghy: It looks good and I vote for Option # 3. The only thing that I feel we did not include in the attachment is the situation on existing homes that are Energy Star Qualified when built... but when the home goes on the market the home owner could have changed something in the home and it may no longer "qualify" as Energy Star Qualified.

Elaine Price: I'm leaning toward Option 3.

Warren Moss: My thoughts would be that option 1 may be adequate now but probably is only putting a band-aid on the problem and is not a permanent solution. I really feel option 3 appears to be the easiest to understand and use from a user standpoint but may be the most complicated to implement, but it would probably keep us from starting over in the future. I think option 2 would be very complicated and not be accurate over time. I think people would skip over them and there would be holes in our information. I really feel that option 3 is the only one that will work over time.

Melanie Coyne: I vote for Option 1. One possibility to address the "can't see all the selections on the report" issue is to develop a Green Report, which will present the listing information from a Green perspective (fields with Green features would have room for all selections to be printed. Or emailed).

Leslie Loveless: We are good with Option 3.

Lee Allen: I am wondering, why can't we do a hybrid of Option 1 and Option 2. Include the additional "green" fields in the categories already there; for example "exterior construction." My question is whether we can flag some of the picks as "green" features. This would allow us to pick or even customize reports utilizing that data. Would this work as far as providing the standard you referenced? I may be wrong but it seems

to me that we would look under “roof” for what type of roof and I definitely don't want option 2 where I have duplicate entry as I believe it will be overlooked and/or ignored. What about a house built in 1950 that has been remodeled with certain “green” features? I really just don't want a new category to have my folks to go to. I believe it will be overlooked.

From a consumer point of view I believe this would be an option that would benefit both buyer and seller.

I just don't want us to have to revisit this in 18 months.

Conclusion

CMLS staff would like approval from the CMLS Board of Directors to proceed with implementation of the changes to the “Green Certification” field in order to implement something in time for Green Week.

With regard to the implementation of the list of 25 “Green Building Features,” although the feedback indicates three votes for Option 3, the alternative suggestions from Melanie Coyne and Lee Allen are similar. CMLS asked MarketLinx to investigate whether those suggestions are technically possible – i.e., to have the 25 items appear in the color green on reports, or creating a “hidden” field in add/edit that would auto-populate based on selections made within the existing feature groups and displaying the “hidden” field somewhere on the reports or a “green” report.

On March 20, MarketLinx reported that it is not possible to refer to multiple pick lists and pull variable choices into one field.



Definitions of Green Building Features

Advanced Framing/Concrete Construction: A construction method (also known as "Optimum Value Engineering" or "OVE") that uses less material in the framing of a home and can reduce material costs and improve energy efficiency. Concrete construction involves using insulated concrete forms (ICFs) to create durable, efficient homes. The approach decreases the number of breaks in the thermal barrier of the building envelope. It also can save on construction costs because it is fast, especially compared with "stick built" homes.

Dual Flush Toilets: Toilets with two buttons for two flush options. Option one allows the user to flush with less water for liquid waste, while option two allows the user to flush with more water for solid waste. Generally the words "dual flush" will appear in the model name for that toilet.

Energy Efficient Light Fixtures: The fixture or the type of bulbs used in a fixture. Compact fluorescent lights (CFLs) and light emitting diodes (LEDs) are becoming more common in homes and buildings and they are more efficient and last longer than incandescent bulbs.

Energy Star Appliances: Products that use less energy than conventional models. The ENERGY STAR® label is a credible third-party certification of a product's energy efficiency. Energy Star is a certification granted by the Environmental Protection Agency and the US Department of Energy for household appliances and buildings that perform at specified levels of energy efficiency. Clothes washers, dishwashers, refrigerators, freezers, water heaters, window air conditioners, central air conditioners, furnaces, boilers, heat pumps, and pool heaters can get the label. Televisions, ranges, ovens, clothes dryers, humidifiers, and dehumidifiers do not receive such labels.

Engineered Wood Products: A type of composite wood with superior durability and strength. Thinner or fewer pieces of engineered wood are required to meet the same strength requirements than would be needed with traditional wood.

Fresh Air Ventilation: A mechanical ventilation component of the HVAC system that draws in fresh air rather than recirculating and filtering air within a home.

Geo Thermal Heat/HVAC System (Closed Loop): Geothermal heat pumps (GHPs) use the constant temperature of the earth to provide cooling and heating for a home. A loop of piping is buried in the ground and fluid circulates through the loop. In the summer, the fluid uses the cooler temperature of the ground to provide indoor cooling. During colder months, the geothermal heat pump uses the below-ground temperature,

which is significantly warmer than the outside air, to warm a home

Low Flow Fixtures: This can refer to a faucet with aerator installed, which lessens the flow of water but improves water pressure, or a low-flow showerhead.

No-Low VOC/Paints, Sealants, Varnish: Products that do not off-gas volatile organic compounds (VOCs). Using products with very little if any VOCs provides for better air quality.

Photovoltaic (PV): This system captures light from the sun and converts it into electricity through solar panels usually installed on roofs.

Programmable Thermostat: A thermostat that allows the homeowner to set the temperature at different levels at different times of day. For example, in winter, it could be set to be colder while occupants sleep and warmer as occupants awaken, then colder again as occupants are away at work.

Radiant Heated Floors: A way to heat spaces using radiant energy that is emitted from a heat source. There are three types of radiant floor heat: radiant air floors (air is the heat-carrying medium); electric radiant floors; and hot water (hydronic) radiant floors.

Rain Water Catchment: Systems that harvest water during periods of rain. The water can be saved and used during droughts.

Recycled Construction/Household Waste: A strategy in which homeowners, remodeling a house in anticipation of selling it, recycle old materials and demolition waste rather than sending them to a landfill.

Sealed Combustion Fireplace / Woodstove: A sealed combustion fireplace or woodstove that gets its combustion air from outside of the home and exhausts 100 percent of the combustion by-products to the outside. This eliminates the likelihood of "backdrafting," a situation in which combustion gases are pulled back into the home and cause health problems.

Sealed Crawl Space: A crawl space under a home that has been properly air sealed to conserve energy.

Solar Assisted Hot Water: A solar hot water array on the roof that supplements (but does not exclusively supply) the hot water to the home. Water warmed by solar energy is pumped into the hot water heater where less energy is required to get it hot or less cold water needs to be warmed to fill the tank.

Spray Foam Insulation: Insulation that is sprayed into place and then expands to fill cavities. It acts as both an insulator and a sealant and is an alternative to the standard insulation bats. The two types of spray foam are open-cell (isocyanurate) and closed cell (polyurethane). Closed cell foams typically have a higher R-value than open-cell

foam.

Sustainable Flooring: This has a wide variety of potential meanings, from bamboo to cork to reclaimed flooring.

On-Demand Water Heater: A system that delivers hot water at a preset temperature when needed, but without requiring the storage of water. The approach reduces or eliminates energy standby losses. On-demand water heaters can be used for supplementary heat, such as a booster to a solar hot water system, or to meet all hot water needs. On-demand water heaters have an electric, gas, or propane heating device that is activated by the flow of water.

Xeriscaping: A landscaping method used in arid areas that incorporates native plants that can tolerate infrequent watering.

In accordance with N.C.G.S. § 150B-19.1(c), the Commission is considering the following proposed rule amendment. No federal certification or fiscal note is required for the proposed change.

The proposed rule amendment is preceded by a Notice of Text which provides information concerning the proposed amendment, including the reason for the amendment, the public hearing date, the public comment period, and procedures for submitting comments or objections to the proposed rule.

Following the Notice of Text is a summary of the proposed amendment followed by the text of the amended rule with changes denoted as follows. Where text has been added, the new text is underlined. Where text has been deleted, the deleted text is marked with a strike through.

Members of the public may submit oral or written comments on the proposed rule by contacting the rule-making coordinator as follows:

Thomas R. Miller
North Carolina Real Estate Commission
P.O. Box 17100
Raleigh, NC 27619
(919) 875-3700 (telephone)
(919) 582-9640 (fax)
legal@ncrec.gov

NOTICE OF TEXT FOR PROPOSED RULE CHANGE
EFFECTIVE JULY 1, 2012

SUMMARY OF PROPOSED AMENDMENT

Amend 21 NCAC 58A .0114(a) to change the the organization and format of the Residential Property and Owners' Association Disclosure Statement so that each of the disclosures is presented as an independent question, eliminating the lead-in and subordinate question format used in previous Disclosure forms. Also, to add additional disclosures regarding septic system permits, pest infestation, additions or structural changes to the dwelling, known violations of federal or state land use laws and regulations, the existence of noise, odor, and smoke from airports, restrictions to land use imposed by land conservation programs, and the existence of leases or rental agreements to which the property is subject.



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume, issue, and date of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency:
2. Agency website postings: <ul style="list-style-type: none">• Text of proposed rule posted at:• Explanation and reason for proposed rule posted at:• Federal Certification posted at:• Instructions for oral and written comments posted at:• Fiscal Note if prepared posted at:
3. Proposed Action -- Check the appropriate box(es) and list <u>rule citation(s)</u> beside proposed action: <input type="checkbox"/> ADOPTION: <input type="checkbox"/> AMENDMENT: <input type="checkbox"/> REPEAL:
4. Proposed effective date:
5. Is a public hearing planned? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes: Public Hearing date: Public Hearing time: Public Hearing Location:
6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:
7. Explain Reason For Proposed Action:

8. The procedure by which a person can object to the agency on a proposed rule:

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

9. The person to whom written comments may be submitted on the proposed rule:

Name:

Address:

Phone (optional):

Fax (optional):

E-Mail (optional):

10. Comment Period Ends:

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected**
- Environmental permitting of DOT affected**
Analysis submitted to Board of Transportation
- Local funds affected**
Date submitted to OSBM:
- Substantial economic impact (≥\$500,000)**
- Approved by OSBM**
- No fiscal note required**

12. Rule-making Coordinator:

Address:

Phone:

E-Mail:

Agency contact, if any:

Phone:

E-mail:

13. Signature of Agency Head* or Rule-making Coordinator:

***If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name:

Title:

1 **21 NCAC 58A .0114 is proposed to be amended as follows:**

2
3 **21 NCAC 58A .0114 RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE**
4 **STATEMENT**

5 (a) Every owner of real property subject to a transfer of the type contemplated by Chapter 47E of the General
6 Statutes shall complete the following Residential Property and Owners' Association Disclosure Statement and
7 furnish a copy of the complete statement to a purchaser in accordance with the requirements of G.S. 47E-4. The
8 form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

9
10 **[N.C. REAL ESTATE COMMISSION SEAL]**

11
12 **STATE OF NORTH CAROLINA**
13 **RESIDENTIAL PROPERTY AND ~~OWNER'S~~ OWNERS' ASSOCIATION DISCLOSURE STATEMENT**

14
15 **Instructions to Property Owners**

- 16
17 1. ~~G.S. 47E~~ The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of
18 residential real estate (single-family homes, individual condominiums, townhouses, and the like, and
19 buildings with up to four dwelling units) to furnish purchasers a Residential Property and Owners'
20 Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this
21 purpose. A disclosure statement must be furnished in connection with the sale, exchange, option and sale
22 under a lease with option to purchase ~~(unless the tenant is already occupying or intends to occupy the~~
23 ~~dwelling)~~ where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is
24 not required for some transactions, including the first sale of a dwelling which has never been inhabited and
25 transactions of residential property made pursuant to a lease with option to purchase where the lessee
26 occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
27
28 2. You must respond to each of the questions on the following pages of this form by filling in the requested
29 information or by placing a check in the appropriate box.
30
31 a. If you check "Yes" for any question, you must explain your answer and either describe any problem or
32 attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency
33 describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information
34 contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
35
36 b. If you check "No", you are stating that you have no actual knowledge of any problem. If you check "No"
37 and you know there is a problem, you may be liable for making an intentional misstatement.
38

1 c. If you check "No Representation", you ~~have no duty~~ choose not to disclose the conditions or characteristics
2 of the property, even if you should have known of them.

3

4 ~~*d.~~ If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement
5 incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a
6 corrected Disclosure Statement or correct the problem.

7

8 3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for
9 completing and delivering the Disclosure Statement to the purchasers; and the broker must disclose any
10 material facts about your property which they know or reasonably should know, regardless of your
11 responses on the Disclosure Statement.

12

13 4. You must give the completed Disclosure Statement to the purchaser no later than the time the purchaser
14 makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel
15 any resulting contract (See "**Note to Purchasers**" below). You should give the purchaser a copy of the
16 Disclosure_Statement containing your signature and keep a copy signed by the purchaser for your records.

17

Note to Purchasers

If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the
time you make your offer to purchase the property, you may under certain conditions cancel any resulting
contract ~~and be entitled to a refund of any deposit monies you may have paid.~~ without penalty to you as the
purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to
cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure
Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no
event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the
case of a sale or exchange) after you have occupied the property, whichever occurs first.

18

19 5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name.
20 Then sign and date.

21

Property Address: _____
Owner's Name(s): _____
*Owner(s) acknowledge having examined this Disclosure Statement before signing and that all information is
true and correct as of the date signed.*

Owner Signature: _____	Date _____, ____
Owner Signature: _____	Date _____, ____
<p><i>Purchaser(s) acknowledge receipt of a copy of this disclosure statement; <u>Disclosure Statement</u> that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owner and not the owner's agent(s) or subagent(s). Purchaser(s) are <u>strongly</u> encouraged to obtain their own inspection <u>inspection(s)</u> from a licensed home inspector or other professional.</i></p>	
Purchaser Signature: _____	Date _____, ____
Purchaser Signature: _____	Date _____, ____

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Property Address/Description: _____

Regarding the property identified above, including the dwelling unit(s) and lot to be conveyed, and not sheds, detached garages or other buildings, to your knowledge is there any problem (malfunction or defect) with any of the following:

		No Repre-
	Yes*	No - sentation
1. FOUNDATION, SLAB, FIREPLACES/CHIMNEYS, FLOORS, WINDOWS (INCLUDING STORM WINDOWS AND SCREENS), DOORS, CEILINGS, INTERIOR AND EXTERIOR WALLS, ATTACHED GARAGE, PATIO, DECK OR OTHER STRUCTURAL COMPONENTS including any modifications to them?	<input type="checkbox"/>	<input type="checkbox"/>
a. Siding is: <input type="checkbox"/> Masonry <input type="checkbox"/> Wood <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Other _____	<input type="checkbox"/>	<input type="checkbox"/>
b. Approximate age of structure? _____	<input type="checkbox"/>	<input type="checkbox"/>
2. ROOF (leakage or other problem)?	<input type="checkbox"/>	<input type="checkbox"/>
a. Approximate age of roof covering? _____	<input type="checkbox"/>	<input type="checkbox"/>
3. WATER SEEPAGE, LEAKAGE, DAMPNES OR STANDING WATER in the basement, crawl space or slab?	<input type="checkbox"/>	<input type="checkbox"/>
4. ELECTRICAL SYSTEM (outlets, wiring, panel, switches, fixtures etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
5. PLUMBING SYSTEM (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
6. HEATING AND/OR AIR CONDITIONING?	<input type="checkbox"/>	<input type="checkbox"/>
a. Heat Source is: <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____	<input type="checkbox"/>	<input type="checkbox"/>
b. Cooling Source is: <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other _____	<input type="checkbox"/>	<input type="checkbox"/>

3

- ~~—c. Fuel Source is: Electricity Natural Gas Propane Oil Other _____~~
- ~~7. WATER SUPPLY (including water quality, quantity and water pressure)?~~
- ~~—a. Water supply is: City/County Community System Private Well
_____ Other _____~~
- ~~—b. Water pipes are: Copper Galvanized Plastic Other _____
_____ Unknown~~
- ~~8. SEWER AND/OR SEPTIC SYSTEM?~~
- ~~—a. Sewage disposal system is: Septic Tank Septic Tank with Pump
_____ Community System Connected to City/County System
_____ City/County System available Straight pipe (wastewater does not go into a septic or
other sewer system [note: use of this type of system violates state law])
_____ Other _____~~
- ~~9. BUILT IN APPLIANCES (RANGE/OVEN, ATTACHED MICROWAVE, HOOD/FAN,
DISHWASHER, DISPOSAL, etc.)?~~
- ~~10. PRESENT INFESTATION, OR DAMAGE FROM PAST INFESTATION OF WOOD
DESTROYING INSECTS OR ORGANISMS which has not been repaired?~~
- ~~11. DRAINAGE, GRADING OR SOIL STABILITY OF LOT?~~
- ~~12. OTHER SYSTEMS AND FIXTURES: CENTRAL VACUUM, POOL, HOT TUB, SPA,
ATTIC FAN, EXHAUST FAN, CEILING FAN, SUMP PUMP, IRRIGATION SYSTEM,
TV CABLE WIRING OR SATELLITE DISH, OR OTHER SYSTEMS?~~
- ~~**Also regarding the property identified above, including the lot, other improvements, and
fixtures located thereon, do you have any**~~
- ~~13. ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES ?~~
- ~~14. ENVIRONMENTAL HAZARDS (substances, materials or products) including
asbestos, formaldehyde, radon gas, methane gas, lead based paint, underground
storage tank, or other hazardous or toxic material (whether buried or covered);
contaminated soil or water, or other environmental contamination?~~
- ~~15. COMMERCIAL, INDUSTRIAL, OR MILITARY NOISE, ODOR, SMOKE,
—ETC. AFFECTING THE PROPERTY?~~
- ~~16. VIOLATIONS OF ZONING ORDINANCES, RESTRICTIVE COVENANTS OR
OTHER LAND USE RESTRICTIONS, OR BUILDING CODES INCLUDING THE
FAILURE TO OBTAIN PROPER PERMITS FOR ROOM ADDITIONS OR OTHER
STRUCTURAL CHANGES(S)?~~
- ~~17. UTILITY OR OTHER EASEMENTS, SHARED DRIVEWAYS, PARTY WALLS OR
ENCROACHMENTS FROM OR ON ADJACENT PROPERTY?~~
- ~~18. LAWSUITS, FORECLOSURES, BANKRUPTCY, TENANCIES, JUDGMENTS, TAX
LIENS, PROPOSED ASSESSMENTS, MECHANICS' LIENS, MATERIALMENS'
LIENS, OR NOTICE FROM ANY GOVERNMENTAL AGENCY that could affect title
to the property?~~

19. ~~FLOOD HAZARD or that the property is in a FEDERALLY DESIGNATED FLOOD PLAIN?~~

20. ~~PRIVATE ROAD(S) OR STREETS adjoining the property?~~

~~a. If yes, do you know of an existing owners' association or maintenance agreement to maintain the road or street?~~

1 * ~~If you answered "Yes" to any of the above questions, please explain (Attach additional sheets, if necessary):~~
2 _____
3 _____
4 _____

5 ~~In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public~~
6 ~~agency, engineer, land surveyor, geologist, pest control operator, contractor, home inspector or other expert, dealing~~
7 ~~with matters within the scope of that public agency's functions or the expert's license or expertise.~~

8
9 Also regarding the property identified above, including the dwelling unit(s), any sheds, detached garages, other
10 buildings or the lot to be conveyed, answer each of the questions below based on your actual knowledge:
11

	Yes*	No	No—Repre sentation
21. Is the property subject to regulation by one or more owners' association(s) and governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12
13 *If you answered "No" or "No Representations" to question 21 above, you do not need to answer the remaining
14 questions on this Disclosure Statement. If you answered "Yes" to question 21 above, you must complete the
15 remainder of this Disclosure Statement.

16
17 22. ~~The property is subject to the following owners' association(s) [insert N/A into any blank that does not apply]:~~
18 ~~(specify name) _____ whose regular~~
19 ~~assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of~~
20 ~~the president of the owners' association or the association manager~~
21 ~~are: _____~~
22 _____
23 _____

24 ~~(specify name) _____ whose regular~~
25 ~~assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of~~
26 ~~the president of the owners' association or the association manager are:~~
27 _____
28 _____
29 _____

30 23. ~~As of the date this Disclosure Statement is signed, there are no other dues, fees, or special assessments which~~
31 ~~have been duly approved as required by the applicable declaration or bylaws, payable to an association to which the~~
32 ~~lot is subject, except:~~
33 _____
34 _____
35 _____

36 24. ~~As of the date this Disclosure Statement is signed, there are no unsatisfied judgments against or pending~~
37 ~~lawsuits involving the property or lot to be conveyed, the planned community or the association to which the~~
38 ~~property and lot are subject, with the exception of any action filed by the association for the collection of delinquent~~
39 ~~assessments on lots other than the property and lot to be conveyed, except:~~
40 _____
41 _____
42 _____

1 ~~25. The following services and amenities are paid for by the above owners' association(s) from the regular~~
 2 ~~assessments ("dues"): (Check all that apply).~~

	Yes*	No	No Repre-
			sentation
3			
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6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			
23			
24			

25 **The following questions address the characteristics and condition of the property identified above, including**
 26 **the dwelling unit(s) and lot to be conveyed about which the owner has *actual knowledge*.**

	Yes	No	No Repre-
			sentation
27			
1. In what year was the dwelling originally constructed? _____.			<input type="checkbox"/>
2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The dwelling's exterior walls are made of what type of material? <input type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____ (Check all that apply)			<input type="checkbox"/>
4. In what year was the dwelling's roof covering installed? _____ (Approximate if no records are available)			<input type="checkbox"/>
5. Is there any leakage or other problem with the dwelling's roof?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?
10. What is the dwelling's heat source? Furnace Heat Pump Baseboard
 Other _____
11. What is the dwelling's cooling source? Central Forced Air Wall/Window Unit(s)
 Other _____ (Check all that apply)
12. What are the dwelling's fuel sources? Electricity Natural Gas Propane Oil
 Other _____ (Check all that apply)
13. What is the dwelling's water supply source? City/County Community System
 Private Well Other _____ (Check all that apply)
14. The dwelling's water pipes are made of what type of material? Copper Galvanized
 Plastic Polybutylene Other _____ (Check all that apply)
15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity, or water pressure)?
16. What is the dwelling's sewage disposal system? Septic Tank Septic Tank with Pump
 Community System Connected to City/County System City/County System available
 Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) Other _____ (Check all that apply)
17. If the dwelling is serviced by a septic system, how many bedrooms are allowed by the septic system permit?
18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?
19. Is there any problem, malfunction or defect with the dwelling's systems and fixtures: central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fan, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems?
20. Is there any problem, malfunction or defect with the dwelling's built-in appliances (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)?
21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired?
22. Is there any problem with a present infestation of ants, roaches, mice, rats, bats, fleas, bedbugs, or other pests in the dwelling or any structure on the property?
23. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?
24. Are there any structural additions or other changes to the dwelling or other buildings on the property?

- 25. Have you been notified that the property is in violation of any federal or state law, local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)?
- 26. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property?
- 27. Is there any noise, odor, smoke, etc. from commercial, industrial, airport, or military sources which affects the property?
- 28. Is the property subject to any land use restrictions imposed by land conservation programs?
- 29. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?
- 30. Is the property the subject of any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property?
- 31. Is the property subject to a flood hazard or is the property located in a federally-designated flood plain?
- 32. Does the property abut or adjoin any private road(s) or street(s)?
- 33. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street?

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If you answered "yes" to any of the questions listed above (1 – 33), please explain (attach additional sheets if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

Yes **No** **No Repre-
sentation**

- 34. To your knowledge, is the property subject to regulation by one or more owners' association(s) and governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments? If your answer is "yes", please provide the information requested below as to each owners' association to which the

property is subject [insert N/A into any blank that does not apply]:

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are _____

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are _____

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*** If you answered "Yes" to question 34 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 34 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.**

	<u>Yes</u>	<u>No</u>	<u>No Repre- sentation</u>
35. As of the date this Disclosure Statement is signed, are there any dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, and that are payable to an association to which the lot is subject? If your answer is "yes", please state the nature and amount of the dues, fees, or special assessments to which the property is subject: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits <i>involving the property or lot to be conveyed</i> ? If your answer is "yes", please state the nature of each pending lawsuit, and the amount of each unsatisfied judgment: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits <i>involving the planned community or the association to which the property and lot are subject</i> , with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes", please state the nature of each pending lawsuit, and the amount of each unsatisfied judgment: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------	--------------------------

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38. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply).

	<u>Yes</u>	<u>No</u>	<u>No Repr- sentation</u>
<u>Management Fees</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Exterior Building Maintenance of Property to be Conveyed</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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<u>Exterior Yard/Landscaping Maintenance of Lot to be Conveyed</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Common Areas Maintenance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Trash Removal</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Recreational Amenity Maintenance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Pest Treatment/Extermination</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Street Lights</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Water</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Sewer</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Storm water Management/Drainage/Ponds</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Internet Service</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Cable</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Private Road Maintenance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Parking Area Maintenance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Gate and/or Security</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Internet Service</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other: (specify) _____

1

Owner Initials and Date _____ Owner Initials and Date _____

Purchaser Initials and Date _____ Purchaser Initials and Date _____

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(b) The form described in Paragraph (a) of this Rule may be reproduced, but the form shall not be altered or amended in any way.

5

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History Note: Authority G.S. 47E-4(b), (b1); 93A-3(c); 93A-6;

7

Eff. October 1, 1998;

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Amended Eff. July 1, 2012, January 1, 2012; July 1, 2010; July 1, 2009; January 1,

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2008; July 1, 2006; September 1, 2002; July 1, 2000.



Carolina Multiple Listing Services, Inc.

CHARLOTTE REGIONAL REALTOR® ASSOCIATION

MEMORANDUM

TO: CMLS Advisory Group

FROM: Debbie Wey

DATE: March 19, 2012

SUBJ.: "Subject to HOA = Y/N"

Options:

1. Make "Subject to HOA = Y/N" a required field.
2. Revise "Subject to HOA= Y/N" so it says "Subject to Mandatory HOA Dues = Y/N"
3. Create a new field called "Subject to Covenants, Conditions & Restrictions = Y/N"
4. Revise CMLS Definition for "Subject to HOA = Y/N" as follows:

Is the listed property subject to regulation by one or more owners' association(s) and/or governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments. If there is an owners' association, please upload the Residential Property and Owners' Association Disclosure and Addendum Statement as an attachment to the listing.

5. Do not add a choice for "No Representation."

From: Hull, Robert H. [<mailto:RHull@nexsenpruet.com>]
Sent: Tuesday, March 20, 2012 1:22 PM
To: Wey, Debbie
Cc: Byrd, Steven; Howard, Annemarie
Subject: RE: regarding the HOA discussion at Tempo Advisory Group

Yes, her statement is true. Many older neighborhoods have CC&R's, but do not necessarily have an HOA. To further muddy the water, some neighborhoods have HOA's that are not mandatory, such as Myers Park, Dilworth and my neighborhood, Sharon Woods – each of which have HOA's, but membership in those HOA's is voluntary, not mandatory - owners in those neighborhoods can belong, or not, as they desire – and dues are charged to anyone who wants to join the HOA, but joining (and dues payment) is not mandatory.

As Melanie says in her email at the bottom of this string, I think the purpose of the question is and should be to alert interested parties that there are CC&Rs and/or an active HOA which collects dues. The mere existence of CC&R's does not mean that there is an active HOA which collects mandatory dues. Could you do two questions – both of which are important:

- (1) CC&R's (y/n)?
- (2) Subject to Mandatory HOA Dues (y/n)?

The problem with a single question here is that one question does not necessarily provide the answer to the other question. Again, the existence of CC&R's does not mean there are also HOA dues charged...but whenever there is an HOA, I think you will probably always find there to be CC&R's for that neighborhood. If the point is to make sure the CC&R's are disclosed and provided to a Buyer and also to let a Buyer know about the existence of mandatory dues, I think two questions are necessary.

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From: Wey, Debbie [<mailto:Debbie.Wey@carolinahome.com>]
Sent: Tuesday, March 20, 2012 11:14 AM
To: Hull, Robert H.
Cc: Byrd, Steven; Howard, Annemarie
Subject: FW: regarding the HOA discussion at Tempo Advisory Group

Bob,

Is Melanie Coyne's statement below true? Are there a lot of residential properties in Charlotte that are subject to CC&Rs without there being an owners' association?

This issue is the roadblock that is preventing us from making the "Subject to HOA=Y/N" field a required field in the MLS system.

Debbie Wey
Assistant Director, CMLS Policy
Carolina Multiple Listing Services, Inc.
Phone: (704) 940-3115
Fax: (704) 940-3120
www.CarolinaHome.com

Charlotte Regional Realtor® Association  
Mingle School of Real Estate 
Housing Opportunity Foundation  

From: Melanie Coyne [<mailto:Melanie@hmproperties.com>]
Sent: Monday, March 19, 2012 4:21 PM
To: Wey, Debbie
Cc: Will Martin
Subject: Re: regarding the HOA discussion at Tempo Advisory Group

CC&Rs without HOAs is extremely common. Think of any neighborhood in Charlotte that was developed before the 80s. Basically any neighborhood inside 485. Do they matter? Absolutely--just give Dan Terry a call and ask him how title companies feel about violations. Even though there is no HOA (and never was one), any other owner subject to those CC&Rs can charge an offending owner with a violation that might result in a removal of the violation (garage? Third story? If it is not allowed, yes).

Melanie

On Mar 19, 2012, at 4:11 PM, "Wey, Debbie" <Debbie.Wey@carolinahome.com> wrote:

Melanie,

See Will Martin's response below.

With a defunct HOA, it is a mandatory HOA, but not currently in operation with officers/directors, etc. But a defunct HOA could come back into existence if Suzie Homeowner gets riled up enough, right?

So if we set aside defunct HOAs, how common is it that there are properties in our market that are subject to restrictive covenants without there being an owners' association?

Thanks,

Debbie Wey
Assistant Director, CMLS Policy
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Fax: (704) 940-3120
www.CarolinaHome.com

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Mingle School of Real Estate <image001.gif>
Housing Opportunity Foundation <image001.gif> <image002.gif>

From: Will Martin [<mailto:WMartin@ncrealtors.org>]
Sent: Monday, March 19, 2012 3:52 PM
To: Wey, Debbie
Subject: RE: regarding the HOA discussion at Tempo Advisory Group

Debbie:

Although I imagine it's pretty rare, it is true that a property can be subject to restrictive covenants without there being an owners' association.

Will

From: Wey, Debbie [<mailto:Debbie.Wey@carolinahome.com>]
Sent: Monday, March 19, 2012 2:40 PM
To: Will Martin
Subject: FW: regarding the HOA discussion at Tempo Advisory Group

Will,

Is it true that a property can be subject to mandatory CC&Rs without also having an owners' association? I know that under the current law a HOA is required for new developments, but for some older properties, is it possible to have CC&Rs w/o having an owners' association? Maybe this is the issue that seems to be muddying the water with the "Subject to HOA = Y/N" field that we have in our system.

Debbie Wey
Assistant Director, CMLS Policy

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Mingle School of Real Estate <image001.gif>
Housing Opportunity Foundation <image001.gif> <image002.gif>

From: Melanie Coyne [<mailto:Melanie@hmproperties.com>]
Sent: Friday, March 16, 2012 8:58 PM
To: Wey, Debbie
Cc: Byrd, Steven
Subject: RE: regarding the HOA discussion at Tempo Advisory Group

Hi Debbie!

Thank you for your message.

I concur with your response about requiring the upload of the CCRs/deed restrictions. I deal a lot with older houses whose deed restrictions are not available in the CC&R search, so a pop-up encouraging agents to upload would be great, along with whatever file size caveat is necessary.

I don't think we should offer "no representation" in MLS. That is an option that sellers only can select; Realtors are never allowed to offer "no representation". My issue with the language in the NC RPOA Disclosure Statement is the same as my issue with our MLS help guide: it needs an "or" after owners' associations. A property can be subject to mandatory CC&Rs *without* also having an association. The second part of their sentence ("including, but not limited to,") is appropriate, but they still need an "and/or" in the first part of the sentence.

So, my suggested change to the MLS help guide remains the same, as does my suggestion to emphasize the point via a message in the welcome box that pops up in Fusion/Tempo.

Thank you!

Melanie Coyne ABR SFR
Broker/Realtor, HM Properties
4725 Piedmont Row Dr, Suite 120
Charlotte NC 28210

704.763.8003 cell
704.909.5107 fax

From: Wey, Debbie [Debbie.Wey@carolinahome.com]
Sent: Friday, March 16, 2012 3:32 PM
To: Melanie Coyne
Cc: Byrd, Steven
Subject: RE: regarding the HOA discussion at Tempo Advisory Group

Melanie,

I'm researching in preparation for our meeting next Wednesday. This is from the "State Of North Carolina Residential Property and Owners' Association Disclosure Statement: 21. Is the property subject to regulation by one or more owners' association(s) and governing documents which impose various

mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments?” The choices are Yes, No, No Representation.

Why can't the listing agent correlate this statement on the seller's disclosure to the "Subject to HOA=Y/N" field in the MLS system? Do we need to add a choice for "No Representation?"

In response to your message below, I don't think we allow enough file space for agents to upload the CC&R's as attachments in the MLS system. Some of those documents can be quite large, and they can be found in the CC&R search. I don't mind encouraging agents to upload such documents, as long as the file size is below the max allowed, but I don't think we should require them to be uploaded.

Thoughts?

Debbie Wey
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www.CarolinaHome.com

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From: Melanie Coyne [<mailto:Melanie@hmproperties.com>]
Sent: Friday, January 20, 2012 4:54 PM
To: Wey, Debbie
Subject: regarding the HOA discussion at Tempo Advisory Group

Hi Debbie – to follow up on the discussion we had last Friday at Tempo Advisory Group about the HOA:yes or no? question, it seems to me that our purpose in including this item in MLS is to communicate, one agent to another, whether or not the purchase of the listed property will obligate the purchaser to abide by CC&Rs and/or an active HOA that collects dues. I confirmed with NCREC that references to HOA in the OTPC and Disclosures are intended to include properties that are governed by CC&Rs but not active or obligatory HOAs. Given that, I propose an alteration of the content of the help box that pops up next to "Subject to HOA" in Tempo to:

Indicate whether ownership of the listed property subjects or does not subject the buyer to regulation by one or more owners' association(s) and/OR governing documents. If there is an owners' association, please upload the NC RESIDENTIAL PROPERTY AND OWNERS ASSOCIATION DISCLOSURE STATEMENT as an attachment to the listing. IF THERE ARE CC&RS, PLEASE UPLOAD THEM AS AN ATTACHMENT TO THE LISTING. (caps for emphasis of the change)

I believe that this will be a departure from past usage of this question and will warrant a special note on the Tempo home page. The guy at NCREC (Glen Wylie) emphasized that CC&Rs are a material fact that must be disclosed, so I think this question should be required, not voluntary.

Thanks!
Melanie

Melanie Coyne ABR SFR
Broker/Realtor, HM Properties
4725 Piedmont Row Dr Suite 120
Charlotte NC 28210

704.763.8003 cell
704.909.5107 fax

<image003.jpg>

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Carolina Multiple Listing Services, Inc.

CHARLOTTE REGIONAL REALTOR® ASSOCIATION

MEMORANDUM

TO: CMLS Advisory Group
FROM: Debbie Wey
DATE: March 19, 2012
SUBJ.: CMLS Definition for Bedroom

CMLS staff recommends revising the definition for “Total Bedrooms” as follows:

A bedroom should be at least 80 SqFt, accommodate typical bedroom furniture, permanent or fixed clothes storage, emergency egress (i.e., operable window that someone could climb through or an exterior door), and directly accessible from other living area through a door, or by a heated hallway or stairway. A bedroom should not be accessible only through another bedroom. Any room counted as a bedroom that varies from this definition must be described in the Remarks, except ~~the number of bedrooms~~ in a property listing shall not exceed the occupancy level imposed by an onsite sewage system improvement permit. Numbers. 0-99 valid range.

Triangle MLS Rules and Regulations Addition

The TMLS Staff recommend the following rule addition to the TMLS Rules & Regulations. This recommendation is the result of:

1. The position taken by the North Carolina Real Estate Commission. (Section A below.)
2. A number of agents in North Carolina being sanctioned by the North Carolina Real Estate Commission for advertising properties with more bedrooms than the limit imposed by an onsite sewage system permit. (Section B below)
3. A phone message exchange between Betsy Penny of the North Carolina Real Estate Commission and attorney Clark Brewer. (Section C below.)

Recommended addition:

SECTION 1.2 DETAIL ON LISTINGS ENTERED INTO THE SERVICE

(DATA AND MEDIA): A listing entered into the Service shall be complete and accurate in every detail, which is ascertainable. The Participant shall maintain a copy of the listing agreement.

(g) The number of bedrooms in a property listing shall not exceed the occupancy level imposed by an onsite sewage system improvement permit.

A. North Carolina Real Estate Commission position:

Wastewater Regulations Can Impact Real Estate Licensees

By Blackwell M. Brogden, Jr., Former Chief Deputy Legal Counsel

Every year, several real estate brokers are disciplined for some form of concealment or misrepresentation of material fact relating to septic systems. In order to avoid being the subject of a complaint, you as a broker should be generally aware of the regulatory program for septic systems and also understand how the program is locally administered.

Presently in North Carolina, local county health departments administer a septic permit program under state regulation and supervision. Certain types of septic treatment solutions require a permit directly from a state agency, others from the county health department.

Once issued, a septic permit does not remain valid indefinitely. Although this was once true, in 1983, a three-year life was imposed on permits (later raised to five years). If a system was not installed during the three- (or five) year life of the permit, a new permit had to be obtained. The new permit was subject to whatever standards were in effect at that time - not standards that were in effect three (or five) years earlier when the original permit was issued, and there was no guarantee that a permit would in fact be available.

Recent legislation has eased this situation by requiring the health department to re-issue expired permits under certain circumstances. However, the re-issued permit generally will require the use of additional technology to improve system performance.

Similarly, the state can terminate a septic system permit for changed conditions on the property, including soil which is inadequate to support the system, use in excess of system

design or permit, or false statements made to obtain a permit. Termination (or denial) of a permit renders a property unusable for residential and many commercial purposes. Therefore, the fair market value of a property is dramatically affected by the septic system permit availability and soil suitability.

What if a purchaser buys property for residential purposes and isn't told that it doesn't "perc?" North Carolina court decisions have compelled builders, lot sellers and developers to pay damages or re-purchase properties in some circumstances when those properties could not be used due to unsuitability for septic system installation or operation.

A broker who makes statements about a property with regard to septic system use must have an adequate factual basis for such representations. If a listing agent does not know for certain the correct facts about septic system use or permitting for a property, the agent must make an adequate investigation of the facts **before making any representations about the property.** Likewise, an agent working with a buyer must remain alert to any "red flags" in a transaction that might require the agent to undertake an independent inquiry into septic system use on a particular property.

Real estate brokers must be truthful in rental transactions as well as sales transactions. Septic permit regulations generally specify a design parameter of two persons *per bedroom listed on the permit* (not the number of rooms in which an owner or agent places beds or the number of beds actually in the property). Thus, when determining occupancy limits, a broker must use all necessary diligence to convey only correct information about permitted occupancy of a property served by a septic system even in a rental transaction, despite economic pressures to increase rental income by advertising higher occupancy levels. Because it is unlawful for an owner to use a property in excess of the occupancy limit imposed by a septic system permit, a licensee cannot willingly or negligently cooperate with the owner in flouting the permit limits.

When the land a broker offers for sale is a building site which must use a wastewater system requiring a permit, the broker should advise all parties to make an adequate investigation of the suitability of the property for a permitted system. A party to such a transaction who is making sale or purchase decisions based on the intended use of the property should be cautioned to determine not just the availability of a permit but to also determine whether the permit will meet the party's intended use of the property.

Caveat

As a real estate broker in sales and/or rental transactions, you must make every reasonable effort to ensure that your representations are correct concerning septic system permit availability and occupancy limits on properties served by septic systems. Relying on the representation of a property owner alone is not enough!

B. North Carolina Real Estate Commission

Disciplinary Actions

Real Estate Bulletin May 2010

BOBBIE L. WEAR (Oak Ridge) – By Consent, the Commission suspended the broker license of Ms. Wear for a period of one year effective July 1, 2010. The Commission then stayed the suspension for probationary period of one year. The Commission found that in 2006 Ms. Wear, acting as qualifying broker and broker-in-charge of her licensed building/real estate firm, served as listing agent for a property in 2006 which she was aware had a three-bedroom permitted septic system but advertised the house as having four bedrooms on the MLS.

HBC BUILDERS (Oak Ridge) - By Consent, the Commission reprimanded HBC Builders effective July 1, 2010. The Commission found that HBC Builders, through its qualifying broker and broker-in-charge, served as listing agent for a property in 2006 which had a three-bedroom permitted septic system but was advertised as having four bedrooms on the MLS.

C. Transcript of phone message left for Clark Brewer by Betsy Penny.

From: Clark Brewer
Sent: Monday, July 26, 2010 3:44 PM
To: 'Randall E. Robinson'
Subject: Septic Tank rules

Randall

I had a telephone message from Betsy Penny who is on the staff of the NC Real Estate Comm. About my inquiry. Her response was unequivocal as follows.

No you cannot list it as 5 bedrooms when the PERC Permit only allows for 3... it can only be listed as 3 bedroom. In the remarks you could say that "There are 2 other rooms being used as bedrooms which are not PERC permitted as such."

I do know what the RE Comm would consider doing for a violation and I'm not sure if we want to pursue that. This statement by Ms Penny is consistent with what Will Martin said.

Clark



J. Clark Brewer
Attorney
Young Moore and Henderson, PA
PO Box 31627
Raleigh, NC 27622
919-782-6860
Fax: 919-782-6753

-----Original Message-----

From: Mark Bardo [mailto:mark.bardo@allentate.com]

Sent: Wednesday, February 15, 2012 8:11 AM

To: Wey, Debbie

Cc: 'Stephanie Gossett'

Subject: Bedroom Count

Hey, Debbie;

Stephanie Gossett contacted me regarding the issue of the bedroom count in MLS vs. the septic permit capacity related to the number of bedrooms. I have become very involved in this matter over the past few years as we have been forced to defend ourselves in several situations where there is a discrepancy between the bedroom count in the marketing material and the bedroom capacity in the permit.

I understand Stephanie spoke with Pete Myers at the NC RE Commission and he indicates the practice of indicating one number in the bedroom count with an off-setting remark clarifying the septic permit capacity is not acceptable.

This is unfortunate as I actually feel this is a great solution.

Have you had any similar discussions with anyone at the RE Commission? I think the MLS position and the RE Commission position needs to be aligned.

I also recognize that different people at the commission may provide different opinions on the same issue, so I am hopeful we can try to resolve this between all the stakeholders.

The proposed new property disclosure addresses this issue to some degree.

While it seeks to clarify the matter of bedroom count and septic capacity, I think it leaves a lot of unanswered questions. Pat Riley has sent a letter to several of the commission members asking for their help to clarify the open issues prior to approving the form.

So, I invite any input you have on this matter so all MLS members are working within the system in parallel. Our company position is that we must follow any rules or guidelines established by the RE Commissions. I am curious to see if you have thoughts on this matter.

--

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February 7, 2012

Ms. Cindy Chandler, CRE
The Chandler Group
6325 Gaywind Drive
Charlotte, NC 28226

Re: Proposed changes to the NC Residential Property Disclosure Statement

Dear Cindy:

I have reviewed the proposed changes to the disclosure statement as provided by NCAR on January 25, 2012. I appreciate you and the other commission members reviewing the form and proposed changes.

One area of disclosure that has been a challenge to licensees in the State is related to the septic permit research and representation. It is my understanding that the commission's current position requires the licensee to be the responsible party for obtaining and verifying the permit status and the capacity status of septic systems when present on a listing we are marketing. I struggle with this for several reasons and look at the proposed changes as a way to resolve the challenge.

The proposed change will allow the owner of the property to provide a response to the question, "If the dwelling is serviced by a septic system, how many bedrooms are allowed by the septic system permit?" I assume the response expected will be a blank field with a number inserted by the owner. I think this is a great solution.

I think the commission should also anticipate a few variables to this question and set expectations for its licensees in the event the owner fails to answer or answers incorrectly. For example:

1. If the seller indicates the permit is for five bedrooms and the permit indicates it is for four bedrooms, is there any liability to the licensee? (Assume the licensee did not actually review a copy of the permit in this example). Is there any responsibility for the licensee to obtain a copy of the permit to verify the owner's representations?
2. If the seller fails to answer the question or elects to make "No Representation", is there any responsibility for the licensee to obtain a copy of the permit or to make a representation? If this example plays out, can the property be marketed with the apparent bedroom count since the permit bedroom count is unknown or unrepresented?

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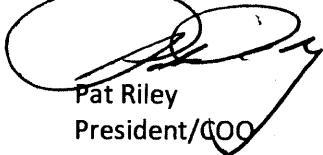
Letter to Ms. Cindy Chandler – Con't

As you are probably aware, the departments of health are the resource for the permits in most counties. Some departments are easy to work with, other more difficult. Some departments have outstanding records going back many decades; other departments have limited records going back only a few years. The inconsistency of information available has created some of the challenges we face.

In 2011, our firm closed over 12,000 transactions. We had fewer than 30 consumer complaints and fewer than 5 lawsuits. The majority of complaints and lawsuits were the direct result of septic capacity representation and the owner of the property had little to no liability for any discrepancies in the septic system representation. It is completely unfair to place the burden of septic system research and representation on the shoulder of the licensee.

I am very grateful for you and the other commission members for revisiting the property disclosure form. I am asking for your group to take this one step further and clarify the licensee's role in the two examples I described above. The combination of both actions will help licensees dramatically in this matter.

Sincerely,



Pat Riley
President/COO

LINDA L. SCHAFFER (Cornelius) – By consent, the Commission suspended the broker license of Ms. Schafer for a period five months effective December 1, 2010. The Commission then stayed the suspension for a probationary period of five months. The Commission found that Ms. Schafer acted as a dual agent for a property with a septic system and permitted as a four-bedroom, two-bathroom, single-family residence and which she advertised as a three-unit apartment building with five bedrooms and three bathrooms, relying solely on tax records for her information. The Commission further found that the septic system failed after the transaction and the buyer was required to upgrade the system at a cost of \$5,000 or allow the property to be condemned.

Bedrooms at the Beach – Advertising Occupancy

By Peter Myers, Legal Information Officer

Every year the Commission receives complaints that brokers in the vacation rental business have represented that a cottage or cabin may be occupied by more people than the septic tank permit allows. Of course, tenants complain when the waste lines back up or the septic system fails. Health officials become concerned when failures create unsanitary conditions and when property limitations allow no room for system expansion or repairs. Agents should be aware of the dangers of advertising occupancy levels for any property served by a septic system without first verifying the system's legal capacity. Properties that are not served by municipal sewer systems are typically inspected by local health departments to assess the site's capacity for on-site sewage disposal (septic systems). An application is submitted for an improvement permit and the county issues a septic permit with a maximum number of bedrooms based on the site's capacity. Occupancy levels are determined by the number of bedrooms allowed by the septic permit, with a maximum of two people per legal bedroom. Therefore, the septic permit is the key to identifying the total number of bedrooms and the total number of people that a particular sewage system can serve. Brokers should understand restrictions on land usage for properties with which he/she is dealing. Brokers who advertise such properties must be careful not to overstate the number of legal bedrooms or the maximum occupancy. Advertisements which say things like "three bedrooms and foldout sofa," "sleeps ten," and "two queens, two doubles, and bunk twins" all make representations about occupancy. Brokers should take care that their advertising does not promote a violation of health codes by directly or indirectly representing that a rental unit may be occupied by more persons than the septic tank permit will allow. An overloaded system can fail and lead to groundwater contamination, costly repairs, and even condemnation. If a broker's advertisement of a property served by a septic system includes a maximum occupancy that exceeds the ability of the septic system as provided by the permit, the agent may have misrepresented the true

condition of the property. A broker should check the county records and disclose both the legal number of bedrooms and a maximum occupancy of no greater than the number determined by this method, regardless of the actual number of bedrooms or beds in the house. Advertising a property as having more bedrooms than permitted, even with a disclosure that the septic permit states fewer bedrooms, may still be misleading and encourage illegal use of the property. Sometimes the original septic permit for a property cannot be located. The health department can usually make a determination based on a new inspection. Licensees should also keep in mind the maximum occupancy must not be overstated as long as the house is serviced by a septic system, even when conversion to public sewer has been scheduled, but not completed. □

HBC BUILDERS (Oak Ridge) – By Consent, the Commission reprimanded HBC Builders effective July 1, 2010. The Commission found that HBC Builders, through its qualifying broker and broker-in-charge, served as listing agent for a property in 2006 which had a three-bedroom permitted septic system but was advertised as having four bedrooms on the MLS.

BOBBIE L. WEAR (Oak Ridge) – By Consent, the Commission suspended the broker license of Ms. Wear for a period of one year effective July 1, 2010. The Commission then stayed the suspension for probationary period of one year. The Commission found that in 2006 Ms. Wear, acting as qualifying broker and broker-in-charge of her licensed building/real estate firm, served as listing agent for a property in 2006 which she was aware had a three-bedroom permitted septic system but advertised the house as having four bedrooms on the MLS.

BETTER BEACH RENTALS (Oak Island) – By Consent, the Commission suspended the firm license of Better Beach Rentals for a period of one year effective December 1, 2009. The Commission then stayed the suspension for a probationary period of one year on certain conditions. The Commission found that an unlicensed employee embezzled approximately \$170,000 from the firm's trust account and that the firm failed to maintain trust account records in accordance with Commission rules. The Commission also found that the firm advertised a property as having eight bedrooms and showed accommodations for as many as twenty people when the septic permit had a maximum occupancy of eight people. The Commission noted that the trust accounts were balanced and fully funded.

JOHN GLASS HAMILTON (Oak Island) – By Consent, the Commission suspended the broker license of Mr. Hamilton for a period of two years effective December 1, 2009. The Commission then stayed the suspension for a probationary period of two years. The Commission found that Mr. Hamilton, as broker-in-charge of his property management firm for approximately five months, failed to perform monthly trust account reconciliations and failed to maintain complete records to identify ownership of trust account funds. Prior to and during Mr. Hamilton's tenure as broker-in-charge, an unlicensed employee embezzled approximately \$170,000 from the firm's trust account. The Commission also found that Mr. Hamilton hired his firm to act as property manager for his own rental property and allowed the property to be represented as having eight bedrooms and showing accommodation for as many as 20 people when the septic permit had a maximum occupancy of eight.

MOUNTAIN LIFESTYLES, LLC (Asheville) – By Consent, the Commission reprimanded Mountain Lifestyles effective September 1, 2009. The Commission found that Mountain Lifestyles, a real estate brokerage firm, listed in July 2006 a property which was served by a septic system and advertised the property as having three bedrooms, but failed to verify that the property was permitted for three bedrooms. The Commission further found that the buyer of the house discovered it had only been permitted for a two bedroom home when attempting to sell the property several years after the purchase.

ANN WEEKS (Asheville) – By Consent, the Commission suspended the broker license of Ms. Weeks for a period of six months effective September 1, 2009. The Commission stayed the suspension for a probationary period of six months. The Commission found that Ms. Weeks listed a property in July 2006 which was served by a septic system and advertised the property as having three bedrooms, but failed to verify that the property was permitted for three bedrooms. The Commission further found that the buyer of the house discovered it had only been permitted for a two-bedroom home when attempting to sell the property several years after the purchase.

RICHARD SCOTT FURTNEY (Jacksonville) – By Consent, the Commission suspended the broker license of Mr. Furtney for a period of one year effective January 15, 2009. The Commission then stayed the suspension for a probationary period of one year under certain conditions. The Commission found that Mr. Furtney advertised two listed properties as having four bedrooms when they were permitted for only three, and that after Mr. Furtney learned that the septic system for one of the properties did not permit a four bedroom house, and repairs to the septic system may not have been performed,

he did not disclose these facts to the purchaser prior to closing. The Commission also found that after the closing of the first house, Mr. Furtney learned that the second house did not have a four-bedroom septic permit, disclosed the problem to the purchasers, but, without the seller's authority, threatened to withhold possession of the property from the buyers unless they provided him a written release that the seller did not require. The Commission noted that Mr. Furtney made a reasonable offer to both purchasers to pay to correct the matters which he should have disclosed. Mr. Furtney neither admitted nor denied the Commission's findings and conclusions.

-----Original Message-----

From: jimkluth@windstream.net [mailto:jimkluth@windstream.net]

Sent: Monday, March 12, 2012 7:32 PM

To: Leitch, Bryan; Howard, Annemarie; jlfrontera@aol.com

Subject: MLS BoD meeting item for discussion

Brian, Jennifer and Annemarie...

I apologize up front if my email is not sent correctly.. I have an issue that I would like to present for consideration.. Again, as the new guy, I am still learning protocol, and who is responsible for what, so I ask your kindness.

My issue is the MLS Violation as regards to branding.

I have learned in the last few days that my brother, David was nearly assessed \$100 for a closed listing noting Fannie Mae required language that he put in remarks- as directed by seller. The specific language relates to this particular REO seller's intent to market a property first to owner occupants. After hearing my brother's 'close call', I noted that all of my Freddie Mac listings included the same language.. I have revised my current and pending listings for Freddie Mac to put the verbiage in agent's remarks, but I honestly believe that the public needs to see it..

After a chat with, and guidance from Jennifer, I would like the Directors to consider that possibly our rules are working against us in this matter.

Jennifer explained that the rules have a purpose, and that some agents go out of their way to beat the system.. I am of the opinion that there should be a medium ground.. I regret that I will not be with you for the next meeting, but would be grateful for any consideration on my issue. Our business is heavy into bank owned listings and these sellers are expecting agents to promote THEIR way.

With respect and appreciation for your time...

jim kluth

--

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Jim Kluth

Countryside Properties

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www.countrysideprops.com

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From: Tammy Reghay [mailto:tammy@cltresidential.com]

Sent: Wednesday, November 09, 2011 8:55 PM

To: Perkins, Bryan

Cc: 'Karla Roberts'

Subject: Suggestion for field in MLS

Hi Bryan – Would it be possible to add a field for agents to list who the loan is with that is in distress ? For example, I have been showing short sales to an investor client for over a month – He works for Wells Fargo. As an employee of Wells Fargo he is not allowed to purchase bank owned or short sale property with Wells – that is about 50 % of the property out there . It would save a lot of time and expectations if buyers agents knew who the loan was with before we ever showed the property – If not a field then might I suggest that listing agents place this in the REMARKS .

I am pretty sure Bank of America has the same rule for their employees.

Tammy Reghay

Realtor/ Broker NC & SC

CLT Residential Real Estate Partners

704-451-4851 mobile

tammy@cltresidential.com

LET ME DO YOUR HOMEWORK !

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1. **From:** Sylvia Short [mailto:sylvia.short@century21.com]
Sent: Thursday, March 08, 2012 3:12 PM
To: Tempo Support
Subject: MLS drop down box addition request for HVAC

Please add GAS PACK to the HVAC drop down box.
Sincerely,

2. **From:** Cathy Burns [mailto:cathy@cathyburns.com]
Sent: Thursday, February 09, 2012 10:46 AM
To: Tempo Support
Subject: Recommended change to Customer Brief Report

Hello,

I would like to see a change made to the format of the Customer Brief Report. Instead of directions to the property, I think the Remarks would be much more useful.

Thanks for your consideration,

Cathy Burns, Broker/Realtor in NC & SC
www.cathyburns.com
704.307.3839 mobile

3. **From:** Allen Dargins [mailto:adarginsrealtor@gmail.com]
Sent: Friday, January 13, 2012 11:20 AM
To: Williams, LaVerne
Subject: Suggestion

Would it be possible to add 'finished' and 'unfinished' to the basement type

Allen D. Dargins
Owner/Broker, ABR, CRS, WHS, e-Pro
Realty Resources of the Carolinas, LLC
980-722-9693
www.RROTC.com

Sent from my iPad

4. **From:** Murphy, Kyle
Sent: Wednesday, January 11, 2012 11:57 AM

To: Williams, LaVerne; Wey, Debbie; Byrd, Steven
Subject: RE: Water Sewer option "Other"

So, I've talked to eight agents about their choice of "Other" in the Water/Sewer field. All of them said that their listings were either Community Well and Septic, or City Water and Septic. None of these agents mentioned anything that isn't already available in the list, so it looks like "Other" might be a superfluous option.

What I did find, however, is that (especially for the lots, but some of the homes as well) everyone was speaking in future tense. Either the water isn't actually hooked up yet at all, or the area is in the midst of changing from one source to another. It sounded as if most of the agents were choosing "Other" as an in-between choice between "none" and whatever it was going to be. Perhaps we might want to add an option into this field to indicate the status of the water, not just the type? Something like "Available" or "Proposed". "Water/Sewer" only allows 3 selections currently, so if we did choose that route we would probably want to move that up to 4 selections available.

Kyle Murphy
Data Distribution Administrator
Carolina Multiple Listing Services, Inc.
Phone: (704) 940-3145
www.carolinahome.com

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From: Williams, LaVerne **On Behalf Of** Tempo Support
Sent: Tuesday, January 10, 2012 4:32 PM
To: Murphy, Kyle
Subject: FW: Water Sewer option "Other"

Specifically have other – research/call /remarks section.

LaVerne Brown-Williams
Help Desk Supervisor
Carolina Multiple Listing Services, Inc.
704-940-3158
www.carolinahome.com

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From: Williams, LaVerne
Sent: Thursday, December 29, 2011 2:38 PM
To: suggestion@carolinahome.com
Subject: Water Sewer option "Other"

AW Meyers does not understand why the option "Other" is available under the field Water/Sewer field.

He came across a listing that had other with nothing n the remarks.

Mr. Meyers believes "Other" should not be in the Water/Sewer.

LaVerne Brown-Williams
Help Desk Supervisor
Carolina Multiple Listing Services, Inc.
704-940-3158
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5. From: cgallagher@thetilleryteam.com [mailto:cgallagher@thetilleryteam.com]
Sent: Thursday, November 03, 2011 12:56 PM
To: Tempo Support
Subject: Add financing type

I was wondering when I am closing out a listing I notice that under Financing type, there is no USDA. Is it possible to add this under this category. We have a lot of USDA loans in our area and appraisers would probably like to see that in there.

Thank you,
Christi Gallagher I.D. # 87891
RE/MAX Properties