



Clear Cooperation FAQs

The questions and answers provided below are specific to Canopy MLS. For more questions and answers, also visit the [National Association of Realtors® webpage about the Clear Cooperation Policy](#).

Question: What property types are applicable under the new Clear Cooperation policy?

Answer: For Canopy MLS, the Clear Cooperation policy applies to the sale or exchange of all Exclusive Right to Sell and Exclusive Agency listings in the following property types:

- Single family
- Condo/townhouse
- Lots/acres/farms
- Multifamily properties of four units or less
- New Construction not already under contract when the certificate of occupancy is issued

It does not apply to commercial properties, rental properties, auction properties, fractional listings, and new construction that is “proposed” and “under construction.”

However, if you submit any of these optional listing types, you must report status changes and closings.

Question: What if I already have a “pocket listing” that the seller authorized me to withhold from the MLS, but it is being publicly advertised?

Answer: If the listing is being marketed to the public, it must be submitted to the MLS for cooperation with other MLS participants. If there has been no public marketing of the listing (includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public) then you must submit the [Firm Exclusive Agreement](#) for the listing.

Question: How does the Clear Cooperation policy apply to builders’ inventory homes? Not all inventory is entered into the MLS. We may market a home internally to those walking through our doors, and to other agents through email blasts, and on our website, but it is not in the MLS. Does this mean we need to enter it as a listing in the MLS at that time? Many times, the home has not started construction yet and there is nothing to view. We are also marketing our own homes; thus would we be exempt from this policy?

Answer: There are two ways builders can get their listings into the MLS:

1. Participate in Canopy MLS directly.
2. List properties with Canopy MLS subscribers.

The first consideration is whether there is an exclusive listing agreement with a participant firm of Canopy MLS.

If there is a listing agreement with a participant firm of Canopy MLS, the Listing Brokerage may submit New Construction properties to the MLS that are “proposed” and “under construction” that have not received a certificate of occupancy. “New Construction” means the certificate of occupancy is no more than two years old, the home has never been lived in, and New Construction does not include remodeling. If a New Construction property is not already under contract when the certificate of occupancy is issued, and the property meets the requirements of Section 1 of the [Canopy MLS Rules and Regulations](#), then the property is required to be submitted to the MLS. If the property is under contract at the time the certificate of occupancy is issued then the property may be either: (1) entered as a new listing and immediately updated to under contract status, or (2) entered for comparable purposes after it closes (see [Canopy MLS Rules and Regulations](#), Section 3.6).

The [Canopy MLS Rules and Regulations](#) allow the properties in a new construction development to be listed as a “Multiple Unit Property.” Multiple Unit Properties can be entered into the MLS as one listing, stating the number and/or types of units available. When an individual unit has been sold, this unit shall be entered into the MLS for comparable purposes. The definition of a Multiple Unit Property includes condos, townhouses, and for use in new construction where multiple units are listed with a single listing.

Each new construction listing must be attached to a specific lot, and the list price must include the price of the lot on which it is listed. Additionally, each listing must provide a valid address, legal description and accurate zoning. If there is no “Street Number,” then use the lot number in the “Street Number” field as well as the “Lot/Unit” field. Canopy MLS does not monitor the “Parcel ID” or “Deed Reference” fields for new construction listings because this information is often not known for new construction listings.

Question: I have my own personal home on the market right now and listed in Canopy MLS. My plan is to take the home off the market for 90 days and have the Cumulative Days on Market (CDOM) reset when I reinput the listing. Am I allowed to: (1) continue to advertise the home to agents who I know that I am still interested in selling if they have a client? (2) Can I list the home as a For Sale By Owner (FSBO) on Zillow? Obviously, in all cases I would disclose that I am the agent/owner.

Answer: How is the listing being represented to the public?

1. **Does the signage give the impression the property is listed by a real estate brokerage?** If the listing agent/owner subscribes to the MLS under a Member Participant, and if the “for sale” sign includes the name of the participant firm, then the representation to the public is that the property is subject to a listing agreement with the participant firm. (The [Canopy MLS Rules and Regulations](#) require there be a listing agreement in this case.) The listing falls under the requirements of the Clear Cooperation policy.
2. **If the listing is a FSBO:** If the listing agent subscribes to the MLS under a Member Participant, if the listing is treated as a FSBO (there is no listing agreement with the firm), and if the “for sale” sign does not include the name of the participant firm, then the Clear Cooperation policy is not triggered.

Question: Have there been updates to the listing agreement forms for North Carolina and South Carolina?

Answer: Yes. NC REALTORS® has changed Forms 101 and 103 and South Carolina REALTORS® has also changed its listing agreements with respect to Clear Cooperation.

Question: What happens if third-party vendors advertise a listing without the listing agent's knowledge?

Answer: The listing agent is responsible for ensuring that third-party vendors, such as home stagers and photographers, comply with the Clear Cooperation policy. The listing agent should instruct third-party vendors not to publish any information about a listing until both the seller and the listing brokerage are fully prepared to enter the listing into the MLS within one (1) business day of beginning marketing.

Question: Does Canopy MLS allow office-exclusive sales to be entered as comps?

Answer: Yes. Canopy MLS has reconfiguring the Unlisted Buyer Agent Sale functionality to allow expanded reporting of Comp Sales with three Sold Comp Types:

1. **Firm Exclusive Comp Sale:** Allows the listing brokerage to specify a listing agent from within the firm. The selling agent will be 00001 or can be changed to an agent from within the firm.
2. **Selling Agent Comp Sale:** Allows the cooperating brokerage to specify a selling agent from within the firm, and the listing agent will be 00001.
3. **New Construction Listing Agent Comp Sale:** Allows the listing brokerage to input new construction comp listings all at once rather than having to save them as Active, change the status to Under Contract, then change the status to Closed, then contact MLS Support to fix the dates. Allows the listing brokerage to specify a listing agent from within the firm, and the selling agent can be any other MLS subscriber.

Question: Does the Clear Cooperation policy give large brokerages a competitive advantage over small brokerages?

Answer: The Clear Cooperation policy does not grant any new or additional rights to large brokerages regarding office exclusives. Rather, it ensures that owners of listed properties who desire exposure get that exposure through the brokerage cooperative. Brokers of all sizes, and smaller brokers in particular, benefit when a greater share of a market's listings are available for cooperation through the MLS.

Peer-to-peer marketing through networking with individual sales agents is no more private than, or superior to, selling the house through a network of ALL the agents in a marketplace.

Question: If at any point an office exclusive listing is available to another brokerage (whether or not they are in the MLS), would the property then be required to be added to the MLS under the Clear

Cooperation policy? [Assume public advertising did not occur and this is an incidental word of mouth situation.]

Answer: Yes. [Canopy MLS Rules and Regulations](#) require the listing be submitted to the listing service and disseminated to its participants within one (1) business day if:

- Any public marketing of the property occurs.
- The prospective buyer is the client or prospect of an agent/broker that is not affiliated with the listing brokerage.

Question: What if a third party posts the property for sale on Facebook? For example, a photographer offers a "service" where he will post the property on Facebook the same day he shoots it. Does this constitute public advertisement? Would the listing member be held to the Clear Cooperation policy in this case?

Answer: The listing member would be held to the Clear Cooperation policy. As the listing agent, you should have total control over marketing the property, and that includes talking to your vendors who are part of the marketing process. The same holds true if the seller posts it, and also if you're posting just the photos with no identifiable address. Canopy MLS has created a brochure for agents to educate home stagers, virtual tour companies, and other vendors they use to get them to acknowledge that there can be no public advertising of the listing in advance of the Marketing Date.

Question: How does this rule apply to REO/HUD listings, etc.? HUD often requires pre-listing photos that include the agent's sign on the property, and many times listing agents don't get the green light to list the property in the MLS until a few days later. Also, banks ask agents to post their contact information/sign on the property prior to giving them the green light to list the property a few days later.

Answer: Both of these situations would trigger the requirements under the Clear Cooperation Policy. Third-party requirements do not modify the rules of the service. Banks and other outside entities must accommodate their practices to be in line with MLS policies if they want to hire a broker who participates in the MLS.

The best way to answer this is, whether REO or not, if (1) there is a listing agreement (2) that is for a property covered under mandatory submission, and (3) that property was kept off the MLS, but is now being publicly marketed in any way, then (4) it must be input into the MLS and shared with other participants within one (1) business day.

As stated in a previous answer, new construction and REO listings often operate under an exclusive master listing agreement with subsequent "assignments" for each individual property. The trigger is whether the property type is subject to mandatory submission.

If the listing is first going for auction, which many REO properties do, Canopy MLS considers auction properties an optional listing type.

If the listing doesn't sell at auction and becomes a normal listing agreement with cooperative compensation, the listing brokerage would be required to submit the listing in the MLS.

Please keep us in the loop on any REO/HUD policies that may be contrary to NAR/MLS policy or could negatively affect members. NAR may be able to open dialogue through its advocacy team to voice those concerns directly to those parties.

Question: The Clear Cooperation policy uses the words "listing brokerage." How does the policy apply to branch offices of a firm and franchise offices?

Answer: The Clear Cooperation policy applies to the listing brokerage. An "office" is defined as all offices under the same ownership as the listing brokerage, and is not meant to encompass brands, franchises, etc.

Question: How do 0% commission listings play into the Clear Cooperation policy if they aren't allowed in the MLS? What is there to stop the listing brokerage from saying they are offering 0% commission until they are ready to put it in the MLS, then amending the listing agreement later?

Answer: It is against NAR policy for a listing brokerage that participates in an MLS to take a listing and not offer cooperative compensation to other participants of the MLS, whether the listing is input into the MLS or not.

In other words, even if the listing is office exclusive and withheld from distribution to other MLS participants, the listing still must include an offer of cooperative compensation to other MLS participants. All listings taken by a participant must be submitted to the MLS within one (1) business day of the Effective Date (or, if applicable, the Delayed Marketing Date as it is known in North Carolina) or the beginning date of the term of the listing (for South Carolina), and every listing must specify the offer of compensation.

NAR has consistently advised that "0" is not a valid amount for cooperative compensation in the MLS. Cooperative compensation must be something more than "0," as determined by the listing broker.

NAR policy does require that all exclusive listings filed with the service include an offer of cooperative compensation for a recognized agency or non-agency relationship provided for in state law (buyer agents, subagents, transaction brokers, etc.). However, NAR policy does not address what, if any, cooperative compensation is extended to brokers outside the MLS. That's up to the listing broker to determine.

Question: What documentation is needed for the Canopy MLS Compliance team to investigate a report?

Answer: Canopy MLS requires documentation of the alleged violation. Please provide a file or image reflecting the public marketing of the property. This may include:

- Photo of For Sale sign

- Copy of a screen shot showing the link to the site with the property on it
- Copy of flyer with the listing information
- Email blast solicitation
- Screen shot of listing appearing on a private network

Question: Does the Broker or Agent have an opportunity to appeal?

Answer: As with all Canopy MLS policies, education is the goal. An appeal process is available as described in the [Canopy MLS Rules and Regulations](#), Section 9.

Question: What is the penalty for violating the Clear Cooperation policy? Is the penalty per infraction?

Answer: Failure to input a new listing that is required to be entered into the MLS system **will continue to be** a Category II violation, which carries an immediate \$100 fine for the first violation. Additional violations of the same offense by the same individual increase by \$50 for each additional occurrence to a maximum of \$500. Thereafter, fines shall be determined by the Canopy MLS Board of Directors.

The respondent must correct the violation within two days. If the respondent does not correct the violation within two days, and the respondent has not indicated plans to appeal the alleged violation, Canopy MLS will assess a Category II Non-Compliance Fine of \$200. The Non-Compliance fine will be re-assessed every two days until the respondent corrects the violation or indicates plans to appeal.

Failure to pay a fine within 20 days (including weekends and holidays) incurs a Non-payment Fine of \$200, and every 30 days thereafter another Non-payment Fine may be levied.

Failure to pay accumulated fines of \$500 or more may result in the termination of MLS services.

Failure to provide the Firm Exclusive Agreement to Canopy MLS within two business days from the Effective Date of the listing agreement is also a Category II violation and the compliance process described above also applies.

Question: How can “under contract” happen so quickly when a property hasn’t been in the MLS?

Answer:

- Some buyers are willing to put in offers sight unseen.
- A buyer agent in the same firm as the listing agent may have a buyer before the marketing date.
- If you have a concern about a missed opportunity because a property went under contract quickly after entry in the MLS, it’s not necessarily a violation, but you can report the issue to compliance@carolinahome.com.
- When did you see a sign in the yard or public marketing of the property, such as through social media or another medium?
- Canopy MLS can request listing documentation to verify compliance.
- Most brokers are looking for clarification or understanding of the policy and there is confusion because the rule used to be the opposite – can’t enter it if already under contract.

Question: Are agents frustrated about the Clear Cooperation policy?

Answer: The backdrop for most questions is tight inventory.

- Talk to the listing agent if your buyers are interested in a property that is in Coming Soon-No Show status (CSNS).
- It is a hard market for buyers. The buyer agent must set expectations. Make sure you are ready with an offer to purchase and due diligence fee.
- Know how CSNS status works. If the listing has multiple showings scheduled for the Marketing Date, maybe the seller shouldn't jump on the offer that is sight unseen. Accepting an offer while the listing is in CSNS status could circumvent other potential offers from prospective buyers waiting for the listing to become active and for the property to be available for showing.
- Staying educated and being trained is key. Are you effectively using all the technology tools, apps, and training, included in your member benefits?
- Read stories from NC REALTORS®, the National Association of REALTORS®, and Inman News. They publish many tips for buyers in a tight housing market.
- The Clear Cooperation Policy should help, too.

Question: How can I overcome seller objections to listing property in the MLS?

Answer: Ask questions. What is causing seller concerns?

- Sellers can opt out of listing syndication
- ShowingTime is not required
- Lockbox is not required
- Listing agent can accompany showings
- Require prospective buyers to be prequalified
- Seller can opt out of having a photo (in writing)
- Use Temp off Market. CDOM resets if relisted more than 90 days later

Question: What is Canopy MLS doing about agents who publicly market a listing without a listing agreement?

Answer: If a listing does not appear in MLS within one business day of being publicly marketed, Canopy MLS sends a violation notice for "Failure to Submit Listing" with the \$100 fine (or more if a repeat violation), and a request for listing documentation.

- There have been a handful of reported violations of the Clear Cooperation Policy where there was no signed listing agreement.
- Real estate regulations in North and South Carolina require real estate brokers and licensees to first enter into a written agency agreement with the owner before marketing the property.
- The Realtor® Code of Ethics requires agreements to be in writing and says Realtors® shall not offer for sale/lease or advertise property without authority.
- Such matters will be referred to the Canopy Realtor® Association's Grievance Committee for consideration.

Question: When should a Firm Exclusive listing be entered into the MLS system after it has gone under contract?

Answer: Firm Exclusive Listings can be entered into the MLS system by the Listing Brokerage once the listing is Closed, unless prohibited in writing by the seller. (Section 3.6: Data entered for “comparable purposes”).

Question: What if a seller accepts an offer before the Delayed Marketing Date, and coming soon marketing was not authorized?

Answer: If the cooperating agent is outside of the firm, that triggers Clear Cooperation and the listing must be input into the system within one business day from when cooperation first begins.

Otherwise, in the listing agreement the seller authorizes the firm to submit information concerning the property upon the execution of a sales contract for the property, to notify the listing service of the pending sale and the expiration date of any due diligence period. Canopy MLS rules state that pending sales must be reported to the MLS (Under Contract-Show or Under Contract-No Show status) within two business days after the Effective Date as defined in the purchase agreement.

Question: If the listing is not Firm Exclusive, can it be promoted to other agents within my firm before the Delayed Marketing Date?

Answer: No. The North Carolina listing agreement authorizes marketing to commence on the Effective Date or the Delayed Marketing Date (if applicable), and marketing prior to the Delayed Marketing Date is permitted only if the seller authorizes coming soon advertising and the listing is submitted to Canopy MLS.

For South Carolina, the listing agreement authorizes marketing to commence upon the beginning of the term of the listing, and the Canopy MLS rules require the listing to be submitted to the MLS within one business day unless the listing is office exclusive.

If the listing is to be marketed exclusively to the firms’ agents and buyer clients, even for a short period of time, the listing agreement must indicate that it is office exclusive. In addition, the Canopy MLS Firm Exclusive Agreement form must be completed and registered within two business days from the Effective Date of the listing agreement. The listing agreement must be amended if the listing agent and seller later decide to publicly market the listing.

Question: The seller has requested that our firm solicit offers from a handful of investor buyers prior to listing the property in the MLS. Is this allowed?

Answer: Under a Firm Exclusive agreement, direct, one-to-one promotion between the licensees affiliated with the listing brokerage and their clients with whom the firm has an agency or legally-recognized non-agency relationship is allowed. However, promotion of the listing to any potential buyer

who is not a client of the listing brokerage (regardless of business model) triggers the Clear Cooperation Policy, and the listing must be submitted to the MLS within one business day.

Question: The agreement with the seller is that we will not post her property on the MLS until after a Preview Open House we are scheduling with my client list. Would the Preview Open House with my client list trigger CCP?

Answer: If the “client list” is a list of the firm’s current clients with whom there is an active agency (or non-agency) agreement, then one-to-one promotion between the firm’s licensees and their clients is not considered public advertising. If the “client list” is a list of all past clients, i.e., book of business, then that would be considered public marketing. Also, if there are signs or balloons present at the open house, that would be considered public marketing.

Code of Ethics defines customer and client as follows: “Client” means the person(s) or entity(ies) with whom a Realtor® or a Realtor®’s firm has an agency or legally recognized non-agency relationship; “customer” means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the Realtor® or the Realtor®’s firm; “prospect” means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the Realtor® or Realtor®’s firm.