



## **Darien MLS Clear Cooperation Changes to the Darien FlexMLS and Clear Cooperation Explained**

The Darien MLS has implemented NAR Rule 8: Clear Cooperation effective 5/1/2020. This document explains the changes to the MLS rules and the FlexMLS system that will happen in conjunction with this new policy. NAR implemented Clear Cooperation to maintain fairness and transparency in real estate transactions and better serve sellers, buyers and REALTORS. To start, it's best to understand the definition of Rule 8 and Clear Cooperation. **Please read this document thoroughly.**

### **NAR's new Rule 8: Clear Cooperation**

*Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS Participants. Public marketing 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. (Adopted 11/19)*

**Note:** *MLS Participants must distribute exempt listings (office exclusives) within (1) one business day once the listing is publicly marketed.*

Simply stated that once you start publicly advertising a listing for sale you have **ONE DAY** to submit it to the MLS.

Rule 8 does not prohibit "Office Exclusive Listings" but, a Withhold from the MLS form must be signed by the seller along with the listing agreement on any listings taken by an MLS subscriber or Participant.

"Office Exclusive" listings are still an option for sellers who do not wish to put their property on the MLS. "Office Exclusive" listings can ONLY use direct promotion of the listing among the brokers and licensees **affiliated with the listing brokerage**, and one to one promotion between these licensees and their clients. This is not considered public advertising. If an "Office Exclusive" listing is publicly marketed (in any way), that listing must also be submitted to the MLS for cooperation within 24 hours of that public marketing.

### **Public marketing 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

Applications available to the general public

Social media and Blogs

Personal marketing to Agents and Brokers not affiliated with the Listing Agency (this includes but is not limited to: conversations, calls, texts, emails)

### **Violations**

Violations may be identified and reported to the Darien MLS by: Darien MLS subscribers, Participants, members of the public or ongoing monitoring of the MLS system by the Darien MLS staff. Complaints can be anonymous, **but proof of an alleged violation is required for enforcement.** Proof could include documents, photos and communications.

A written notification of the violation will be sent to the Listing Agent and Broker, and a fine assessed to the Listing Broker. The Listing Agent or Broker must remedy the violation by immediately removing the public

marketing, or by entering the listing to the Darien FlexMLS system within 24 hours of the written notification. The fine is payable to the Darien MLS and must be paid within 3 business days of the violation notice by either the Listing Agent or Broker. First violation fine \$500, second violation \$1,000 and third violation \$5,000. NAR's new rule specifies fines of up to \$5,000 for violations of the Clear Cooperation rule. Please refer to the detailed Darien MLS Clear Cooperation Violation Action Schedule for further detail.

### **Appeals**

Appeals for violations and associated fines must be made in writing and within 3 business days of notice of the violation, and will be reviewed by the Darien MLS Board of Directors.

### **Four Ways to Handle New Listings Under Clear Cooperation:**

**ACTIVE LISTING:** A listing must be entered into the MLS within 24 hours of when a listing agreement is signed. The Listing Agreement Certification must be uploaded to the MLS (private view) within 24 hours of the listing being entered on the MLS. An ACTIVE listing must be available to be shown to all MLS subscribers and participants. (**REQUIRED PAPERWORK:** A LISTING AGREEMENT CERTIFICATION)

**DELAYED LISTING::** A listing is signed by the owners but are not ready for public marketing. The listing is withheld from the MLS until such time as the seller instructs the agent to go ACTIVE. The Listing Agreement Certification and Delayed Listing Addendum must be uploaded to accompany the listing within 24 hours of the listing being entered on the MLS and made ACTIVE. An ACTIVE listing must be available to be shown to all MLS subscribers and participants. (**REQUIRED PAPERWORK:** LISTING AGREEMENT CERTIFICATION AND A DELAYED LISTING ADDENDUM).)

**COMING SOON LISTING:** If you are SURE that the listing will be available for public marketing and showing within the next 14 days you may want to consider a COMING SOON listing. This listing is on the market **but not available for showings or offers** until it is made ACTIVE. This status has a **14-day limit**. Showings can be scheduled for on or after the ACTIVE date. The listing feeds to IDX and Realtor.com. It's important to note that if you use COMING SOON and for some reason you need to delay the listing you CANNOT switch from COMING SOON to DELAYED. BE SURE that you will be ready within 14 days or less. You can make the listing ACTIVE before 14 days are up. Note that since the property is on the MLS that you can publicly market the property. Be VERY careful that you DO NOT SHOW or ACCEPT an offer under this status. (**REQUIRED PAPERWORK:** A LISTING AGREEMENT CERTIFICATION AND A COMING SOON ADDENDUM)

**OFFICE EXCLUSIVE LISTING:** "Office Exclusive" listings can ONLY use direct promotion of the listing among the brokers and licensees **affiliated with the listing brokerage**, and one to one promotion between these licensees and their clients. (**REQUIRED PAPERWORK:** CERTIFICATION TO WITHHOLD FROM MLS NEEDS TO BE FILED WITH THE DARIEN MLS) Sales completed under the Office Exclusive listing type will be post reported for informational purposes only.