



Notice of RCASENC General Membership Meeting

Date: Wednesday, July 24, 2024

Time: 10 AM

Via Zoom

Proposed Amendments (7/24/24)

Please join RCASENC for a Special General Membership Meeting on **Wednesday, July 24 at 10 AM via Zoom**. The eligible members present will vote to approve the proposed amendments to the Bylaws. A Zoom link will be provided to those who registered. Amendments can be found in *ARTICLE XI, Commercial Multiple Listing Service*.

The proposed RCASENC Bylaw amendments to *ARTICLE XI, Commercial Multiple Listing Service*, reflect the CFR Board's approval for "opting-in" to the NAR Settlement. As a CFR Commercial Alliance, this ensures that the RCASENC MLS Service is covered under the NAR Settlement Agreement as well.

Additionally, the proposed amendments provide the opportunity for RCA's MLS service to be offered to licensed real estate practitioners that do not hold REALTOR® membership.

In the current legal landscape, the fall-out from settlements and lawsuits are causing brokerages to disassociate themselves from NAR membership. Becoming an "Open MLS" (An MLS that is open to non-REALTOR® Participants.) allows RCASENC to capture business that it may otherwise lose, while safe guarding the association and MLS services from potential lawsuits.

The "Open MLS" concept is widely accepted nationwide and sanctioned by NAR. This is not a new concept and NAR has approved Policies guiding the Open MLS model including eligibility of participants, the Standards of Conduct for MLS participants, and Arbitration of Disputes.

MLS participants that do not hold REALTOR® Association membership would not be eligible for Association membership benefits.

BYLAWS

REALTORS® Commercial Alliance of Southeastern North Carolina of the Cape Fear REALTORS®

Article XI. COMMERCIAL MULTIPLE LISTING SERVICE

Section 1. Authority. The RCASENC shall maintain for the use of its Members a Multiple Listing Service, hereinafter called NCCOMMERCIALMLS, which shall be subject to the Bylaws of CFR, and such Rules and Regulations as may be hereinafter adopted.

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

Section 3. Governing Documents. The Board of Directors shall cause any NCCOMMERCIALMLS established by it pursuant to this Article to conform to its Bylaws, Rules and Regulations, and all Policies; at all times to the Constitution, Bylaws, Rules, Regulations, and Policies of the NATIONAL ASSOCIATION OF REALTORS®.

Section 4. Participation. Any ~~REALTOR® of CFR or any other Association who is a~~ principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the Rules and Regulations thereof and to pay the costs incidental thereto. However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "membership" or "participation" unless they hold a current, valid real estate broker's license ~~and offer or accept compensation to and from other participants,~~ or are licensed or certified by an appropriate North Carolina regulatory agency to engage in the appraisal of real property. Use of information developed by or published by an Association Multiple Listing Service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "participation" or "membership" or any right of access to information developed by or published by an Association Multiple Listing Service where access to such information is prohibited by law. The ~~REALTOR®~~-principal of any firm, partnership, or corporation, or the branch office manager designated by said firm, partnership, or corporation as the "participant" shall have all rights, benefits, and privileges of the Service and shall accept all obligations to the Service for the participant's firm, partnership, or corporation, and for compliance with the Bylaws and Rules and Regulations of the Service by all persons affiliated with the participants who utilize the Service.

Any applicant for MLS participation and any person affiliated with an MLS participant or his/her Subscriber who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS Rules and Regulations and computer training related to MLS information entry and retrieval at the next available New Member Orientation after access has been provided.

~~Note: Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm 'offers or accepts cooperation and compensation' means that the~~

~~Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. “Actively” means on a continual and on-going basis during the operation of the Participant's real estate business. The “actively” requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part time, seasonal, or similarly time limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.~~

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

~~The m Membership requirements shall be applied on a nondiscriminatory manner to all Participants and potential Participants. (Adopted 11/08)~~

Section 4. Supervision. The activity shall be operated under the supervision of the RCASENC /MLS Committee in accordance with the Rules and Regulations, subject to the approval of the Board of Directors.

Section 5. Appointment of Committee: The President may appoint, subject to confirmation by the Board of Directors, a RCASENC MLS Committee.

Section 6. Vacancies: Vacancies in unexpired terms shall be filled as in the case of original appointees.

Section 7. Attendance: Any Committee member who fails to attend four (4) meetings during a calendar year shall be deemed to have resigned from the Committee and the vacancy shall be filled as herein provided for original appointees.

Section 8. Access to Comparable and Statistical Information. Members who are actively engaged in real estate brokerage, management, appraising, land development or building, but who do not participate in NCCOMMERCIALMLS are nonetheless entitled to receive by lease all information other than current listing information that is generated wholly or in part by the NCCOMMERCIALMLS including “comparable” information, “sold” information, and statistical reports. This information is provided for the exclusive use of these members and individuals affiliated with these members who are also engaged in the real estate business and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office, or firm except as otherwise specified in the NCCOMMERCIALMLS Rules and Regulations. Association Members who receive such information, either as an Association service or through the NCCOMMERCIALMLS are subject to the applicable provisions of the NCCOMMERCIALMLS Rules and Regulations whether they participate in the NCCOMMERCIALMLS or not.

Section 9. Subscribers. Subscribers (or users) of the NCCOMMERCIALMLS include nonprincipal brokers, sales associates, licensed and/or certified appraisers, Registered Trainees, affiliated unlicensed administrative and clerical staff, and person assistants who are affiliated with Participants or a Participant’s licensed designee.