

# Clearly Confused 8.1: Ask Technical Terry



Dear TT,

In my tenure as a Realtor, I thought cooperation had always been one of the fundamental tenets of MLS – any MLS, not just RMLS™. I've tried to read up on the plethora of info that RMLS™ has been providing regarding this Clear Cooperation MLS 8.0 change, but I'm still not 100% sure I understand exactly what the change means.

I've heard the terms “pocket listing”, “off-MLS listing” and “office exclusive listing” – what the heck is the difference? I suspect it won't really affect or alter my business practices, but I'm assuming it may other practitioners depending on how this changes the landscape. Can you help?

*–Intrigued in Iona*

Dear Intrigued,

Of course I can! Or, I should say, I will do my best to help you and others confused as we adjust to the new rules.

As you stated above, one of the core tenets of MLS is

cooperation. That, along with a guarantee of compensation, make up what I consider to be two cornerstones in the foundation of MLS. As the industry has evolved over time, there have been many business models employed, some with greater success than others.

Regardless of their differences, all of the models relied on those two fundamental tenets (cooperation and compensation) via the MLS system. However, throughout the history of MLS, even with the demonstrable benefit to both seller and buyer of sharing listing information within the MLS co-op, there have been real-world reasons to withhold listings from the co-op. Most of those examples were based on seller security/privacy in some way – which is perfectly legitimate.

The problem that arose over time, facilitated in particular by web-based real estate marketing, is the reality that some “pocket listings” (or “off MLS listings” as they’ve been more recently described) were not actually being excluded for privacy reasons. They were excluded out of a desire to capture more of the money available in a transaction – this is clearly not within the framework of MLS rules regarding cooperation.

So along comes Clear Cooperation MLS 8.0, the new policy approved earlier this year by NAR and being implemented by RMLS™ on April 30, 2020. Intending to add clarity to what can and cannot be done by MLS subscribers with exclusions, this is a national change for any MLS aligned with NAR. In some ways, Clear Cooperation MLS 8.0 makes it better for sellers wanting their property excluded from the MLS co-op, in that they no longer experience a 30-day penalty to have their property added to the MLS co-op if it does not sell “off MLS”.

That was a very real deterrent historically that has been changed with this new policy. So, you can still take a “pocket” or “off MLS” listing but the criteria for keeping it out of the co-op has become much clearer.

You mentioned that you have read and watched a lot of info about this change, so this may not be news to you. However, here is a look at key attributes of the new policy:

- Any “public” marketing of the pocket / off MLS listing immediately invokes a violation of the new rule, requiring the listing be added to the MLS co-op within one business day of 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 communication marketing (email blasts),
  - multi-brokerage listing sharing networks
  - applications available to the general public
- “Office Exclusive” listings are still possible within the framework of this new rule, but your “marketing” of this type of listing is limited to direct promotion of the listing between the licensees/brokers in **your** brokerage office, and one to one promotion between these licensees and their clients. In essence, you could share your Office Exclusive listing with the licensees within your brokerage at an office meeting, and they can one to one share with their clients, and that’s it.
- Coming Soon No Showing listings are still possible for RMLS™ subscribers even after the implementation of CC 8.0 (same CSN rules apply as prior to this change).

In closing, thank you for the great question, and for trying hard to stay abreast of this really important evolution of MLS rules. Keep your eye on the *RMLSweb* Desktop News for more info as this rule change is rolled out.