

# **BAREIS MLS® Rules**

## **Introduction**

All BAREIS MLS® members sign a written agreement to abide by the Bylaws and MLS Rules (“Rules”). Members are responsible for adhering to these Rules as a condition of their membership and are responsible for being aware of all current Rules (Rule 5.1). Data share members agree to be bound by the respective rules & regulations of other MLSs by utilizing the other MLS database (Rule 8.2).

This tutorial was created to help you become more familiar with BAREIS MLS® Rules. The following will provide you with an explanation of the purpose of BAREIS MLS®, as well as the most commonly violated Rules, and BAREIS MLS® Warning, Citation and Appeal Policy. It is not a complete review of the Rules and you are encouraged to review the Rules in their entirety. BAREIS MLS® staff will be happy to answer questions regarding the use of the database.

**Compliance Tip: Call 707-575-8000 or email [Rules@norcalmls.com](mailto:Rules@norcalmls.com) to contact the Data Integrity Department.**

### **Purpose**

BAREIS maintains a copyrighted Multiple Listing Service (“MLS,” or the “BAREIS MLS®”) that is a means by which:

- (a) Authorized Broker Participants establish legal relationships with other Participants by making blanket unilateral contractual offers of compensation and cooperation to other Broker Participants;
- (b) Information is accumulated and disseminated to enable authorized Participants to prepare appraisals and other valuations of real property;
- (c) Participants engaging in real estate appraisal contribute to common databases; and
- (d) The orderly correlation and dissemination of listing information among the Participants is facilitated so that they may better serve their Clients and customers.

**BAREIS does not regulate commissions, commission splits, or the business models of its Members.**

Participants and Subscribers shall use the BAREIS MLS® solely for the purpose of selling, listing, leasing, valuing and appraising real estate, strictly as permitted by the Bylaws and these Rules. Except as expressly provided in the Bylaws and these Rules, Participants and Subscribers shall not copy, create derivative works of, distribute, perform, or display the BAREIS MLS® or any part of it.

### **Most Violations Involve the Following Rules**

#### **Intellectual Property Rights (4.4)**

Except as provided by Rule 14.4, Members shall not use photographs or other images or virtual media, Marketing Remarks, appraisal reports, or other intellectual property (collectively, “Media”) from another listing without the prior written permission of the previous Listing Broker or other party that has the legal right to reproduce and display the Media.

- (a) Members shall not remove or alter any metadata, copyright or electronic management information (as defined in § 17 USC 1201(c)) or other markings indicating another Person's intellectual property rights in any such Media.
- (b) By submitting Media to the MLS, the Listing Broker represents and warrants that he or she either owns the right to reproduce, display, and include such Media in the BAREIS MLS® copyrighted compilation per Section 2.1(d) of the Bylaws, or has procured such rights from the appropriate party, and that such Listing Broker has the authority to grant and hereby does grant to BAREIS the irrevocable right and license (i) to reproduce, display, and include such Media in the BAREIS MLS® copyrighted compilation and (ii) to sublicense and grant the right to reproduce and display the Media to BAREIS' Participants, Subscribers and Members and to other Persons as required or permitted by the Bylaws or these Rules. To the extent that the Listing Broker does not possess the rights to permit the foregoing assignment, the Listing Broker hereby grants to BAREIS a non-exclusive, perpetual, world-wide, transferable, royalty-free license to reproduce, prepare derivative works of, distribute, display, perform and license (including sublicenses through multiple tiers) the Listing Broker, Participant or Subscriber contribution.

#### **Administrative User (Rule 5.4)**

An "Administrative User" is an individual under the direct supervision of a Participant or Subscriber who performs only administrative and clerical tasks that do not require a real estate license or an appraiser's license or certificate. Administrative Users are assigned unique and individual administrative access to the MLS Database. Each Participant shall provide BAREIS with a list of all Administrative Users employed by such Participant and his or her Subscribers and shall notify BAREIS of any changes, additions, or deletions from the list within three Days. Administrative Users without an active real estate license or appraiser's license or certificate are subject to a special dues rate established by the Board. Administrative Users with an active real estate license or appraiser's license or certificate are billed at the Subscriber rate. Administrative Users shall not provide any MLS Data to Persons other than the Participant or the Subscriber under whom the Administrative User is registered.

**Compliance Tip: Assistants should be registered as a member of BAREIS MLS® if they will be entering or revising listing data, running statistics, or compiling reports using MLS information.**

#### **Mandatory Inclusion (Rule 9.7)**

Members shall include in the MLS Database all accepted listing types located within the service area of BAREIS, within three Days after all necessary signatures have been obtained on the subject listing or on the effective date of the contract, whichever is later. Listings of property located outside the Primary Service Area are not required to be included. Commercial/Industrial, 5+ Units, Business Opportunities, or Rental categories are not required to be included in the MLS Database.

**Compliance Tip: Listings must be entered within three days of the date the listing agreement becomes effective.**

#### **Excluding Listings and Listing Data from MLS and Internet Sites (Rule 9.8)**

Final sales data or final results of the transaction shall be reported to BAREIS for all properties listed in the MLS Database.

9.8.1 Listing Excluded from MLS Database by Seller. If the Seller does not permit the listing or final reporting of sales data to be included in the MLS Database at the time the listing is taken, the listing shall not be entered into the MLS Database. The Listing Broker shall have the Seller complete an authorization to exclude the listing on a BAREIS Approved SEL Form. The SEL Form shall be complete in

all respects, including necessary signatures and attachments. This authorization to exclude shall be submitted to BAREIS within three Days of the effective date of the listing agreement by means of the Web form available at [www.bareis.com](http://www.bareis.com) or by providing a copy to BAREIS or by submitting the listing into BAREIS MLS® with a future On-Market Date. Listings with an accepted offer or Sold during an exclusion period or prior to the On-Market Date shall only be entered into the database as a Comparable/Sold off MLS Listing per Rule 9.20. Listings with an accepted offer in place may be entered into the MLS Database for the purpose of seeking back-up offers. Such listings are considered Comparable/Sold off MLS Listings and shall meet all Comparable/Sold off MLS Listing requirements upon the close of escrow.

9.8.2 Exclusion of Listing from the Internet. The BAREIS Approved SEL Form shall also be used to exclude a listing from the Internet, or to comply with the Seller's instructions regarding the use of the listed property's address on the Internet as described in Rule 14.4, LISTING DATA ON THE INTERNET.

9.8.3 Exclusion Shall Be in Accordance with Rule. If the property is not properly excluded in accordance with this Rule 9.8, it shall be included in the MLS Database.

**Compliance Tip: If a listing will not be entered into the MLS within three days of the effective date of the listing agreement, Members shall either utilize the exclusion confirmation system to certify the necessary exclusion documents have been obtained or submit the exclusion documents to BAREIS MLS®.**

Click [here](#) for BAREIS SEL Form

Click [here](#) for BAREIS Exclusion Confirmation

#### **Written Documentation (Rule 9.10)**

In order to preserve and ensure the accuracy of MLS data, BAREIS shall have the right at any time and from time to time to request Documentation, including but without limitation, full, true and complete copies of listing and purchase and sale agreements and related authorizations. Members shall provide the requested documentation within 1 Day following the subject request by the BAREIS staff.

**Compliance Tip: Members shall provide the requested documentation to BAREIS staff within 1 Day following the request by the BAREIS staff.**

#### **Accuracy of Information (Rule 9.11)**

By filing a listing with BAREIS, the Listing Broker shall be responsible for the truth of all representations and statements of which the Listing Broker had knowledge or should have had knowledge, as required by California Civil Code § 1088. The Listing Broker shall immediately review the listing, verify its correctness, and correct any error. BAREIS shall not be required to, and assumes no responsibility to, review, edit, or exercise editorial control over any listing. The foregoing notwithstanding, BAREIS may take any steps necessary in its sole discretion, including deleting a listing or portions thereof, to avoid or remedy any violation of law, breach of these Rules or infringement of any intellectual property right. Additionally, BAREIS shall have the right to alter or remove metadata and copyright management information contained in the listing. If the Listing Broker is unable to correct an error, he or she shall notify BAREIS in writing. BAREIS' sole responsibility shall be to correct the error as presented by the Listing Broker.

Click [here](#) for BAREIS MLS® Listing Change Form

**Detail on Listings – Listings Information (Rule 9.12)**

Listing information filed with BAREIS by the Listing Broker shall be complete in every detail, including, but not limited to, property status, contract dates, the listing price, the expiration date, the compensation offered to other Broker Participants, photographs, and any other item required to be included as determined by the Board. A Listing Broker who is notified by any Third Party, including, but not limited to, the Seller or BAREIS, that the data has an error or omission or requires a correction, shall complete or correct the information within three Days from the date the Listing Broker is so notified.

**Compliance Tip: Listing and Sale information, including Sales Conditions must be complete and accurate.**

**Listing Photograph Requirements (Rule 9.13)**

A minimum of one photograph or graphic image best depicting the exterior of the subject property shall be attached to the listing within one Day of entering the listing unless the Seller signs an exclusion, utilizing the BAREIS Approved SEL form, directing that the property image not appear in BAREIS MLS® compilations. No photos may be removed from the listing once the listing is Sold, Expired or Withdrawn/Cancelled. Any image (including architectural renderings) that illustrates any condition other than the “as-is” condition of the property shall be labeled as such in the photo comments or on the photo itself. Photographs are optional for Coming Soon, Lots & Acreage, Commercial/Industrial, 5+ Units, Business Opportunities, and Rental listings.

**Compliance Tip: A photograph of the exterior of the subject property must be attached to the listing within one day of entering the listing into the database.**

**Correct Use of Data Fields (Rule 9.16)**

Data fields may be used only for their specified purpose, including:

9.16.1 General. Members shall not use the remarks section or any MLS Database field for the purpose of disparaging other Members, conveying information about other offices, or for conveying any information that does not directly relate to the marketing of the subject listing.

**Compliance Tip: Data fields should be used only for their specified purposes and should not be used to thank or disparage another agent or office.**

9.16.2 Confidential Remarks. The confidential remarks data field (“Confidential Remarks”) is intended to contain agent-to-agent remarks, showing instructions, financing or escrow information, contact information, and any information deemed confidential pursuant to these Rules.

- (a) No reference shall be made to Real Estate Licensees who are not Members of BAREIS or a reciprocating MLS such as defined in Rule 8.
- (b) “For Comp Purposes Only” shall appear in the first line of Confidential Remarks when a listing is entered for that purpose.
- (c) Caution: Title, escrow, and lender information may be entered into Confidential Remarks; however, Members should note that any verbiage that implies a requirement to use a specific title company, escrow service, or lender may be a violation of RESPA. You are advised to seek legal counsel for specific advice when using such verbiage.
- (d) See Rules 9.3, 9.14, 9.19, 9.20, 10.1, 10.3, 10.5 10.11 and 11.2 (for more Rules regarding Confidential Remarks).

9.16.3 Marketing Remarks/Property Description Field. Information in the Marketing Remarks Field shall only relate to the marketing, description and condition of the property and its amenities.

- (a) No contact information is permitted, including names, phone or fax numbers, email addresses or website addresses (including virtual tours and URLs) or calling instructions. Non-branded community interest and HOA websites are permitted.
- (b) No showing or open house instructions are permitted, including references to lockbox, alarm, gate or other security codes, or the vacancy of the property.
- (c) No information directed toward real estate agents or brokers is permitted, including compensation or bonuses offered to Buyer's Broker.
- (d) No personal information relating to the seller or occupants of the property is permitted.
- (e) No information related to financing governed by truth-in-lending laws is permitted.
- (f) No information is permitted that is prohibited or restricted by any federal, state, or local regulation.

Click [here](#) for Guidelines to Proper Use of Marketing Remarks Fields.

9.16.4 Photograph Areas and Virtual Media. Photograph areas, including photo remarks, shall be used only for their specified purpose of displaying the subject property, its amenities and areas of community interest.

- (a) Photo remarks are restricted to describing the subject photograph.
- (b) The first and most prominent photograph of the listing shall be of the subject property.
- (c) Up to 5 community interest photographs with remarks describing the subject of the photograph may be posted; however, the total number of community photographs shall not exceed 50% of the total number of photographs.
- (d) Virtual tours should be pointed directly to a virtual tour, and not to a company or agent's website.
- (e) Photographs shall not contain legible contact information, including, but not limited to, office or agent names.
- (f) Photographs of the subject property and its amenities shall not contain images of people.

**Compliance Tip: Photos in the MLS should not contain legible contact information such as signs or any other form of Agent or Office information.**

9.16.5 HUD Discriminatory Terms. Federal and state law and Housing and Urban Development ("HUD") regulations prohibit the use of certain discriminatory terms and actions. Members are expected to be aware of these terms and are prohibited from the use of these terms in the MLS Database.

9.16.6 Publication of Access Codes. The publication of access codes, including, but not limited to, security alarm codes, digital deadbolt codes and gate codes, is prohibited in any MLS data field.

**Compliance Tip: Gate codes and combo codes are not permitted in BAREIS MLS®.**

### **Reporting of Sales (Rule 9.19)**

Contingent sales, pending sales, failed sales, closed sales and referred sales shall be reported to BAREIS by the Listing Broker as soon as practicable, but in no event later than three Days after their occurrence.

9.19.1 Contingent Sales. Listings with accepted offers by the Seller with contingencies or conditions (i.e., Buyer's or Seller's lender's approval, inspections, release clauses, etc.) shall be reported to the MLS as "Contingent" by the Listing Broker. Neither offer price nor terms shall be posted prior to the final closing.

9.19.2 Pending Sales. Listings with accepted offers without contingencies shall be reported to the MLS as "Pending" by the Listing Broker. Neither offer price nor terms shall be posted prior to the final closing.

9.19.3 Failed Sales. The Listing Broker shall report immediately to BAREIS the cancellation of any contingent or pending sale and the listing shall be reinstated immediately as long as there is still a valid listing.

9.19.4 Closed Sales. A "Closed Sale" ("Sold") is defined as a completed transaction where escrow has closed and title to the property has been transferred, or, in the case of a lease, where the lease agreement has been signed by the lessor and the lessee.

9.19.5 Referred Sales. When a listing offers referral fees instead of selling commissions, the Member that introduces the resulting Buyer to the Listing Broker shall be deemed the selling Member for reporting purposes.

9.19.6 Deed Returned to Lender. If a property listed in the MLS Database results in a return of the deed to the lender, e.g., a deed-in-lieu of foreclosure, the listing shall be withdrawn/canceled on the date the deed-in-lieu is issued, and shall not be included in the MLS Database as "Sold" or as a "Comparable/Sold off MLS Sale." When withdrawing/cancelling the listing, the first statement in the Confidential Remarks field shall describe the type of transaction or the circumstances under which the deed was returned, e.g., "Withdrawn and cancelled. Seller issued a deed-in-lieu of foreclosure."

9.19.7 Duplicate Sales. The Listing Broker shall report as Sold the listing that best reflects the buyer's intended use of the property. The other listing shall be withdrawn/canceled by the Listing Broker.

**Compliance Tip: Status changes shall be reported within three days of their occurrence.**

Click [here](#) for Status List and Definition

### **Comparable/Sold off MLS Listings (Rule 9.20)**

A listing Sold while excluded from the MLS Database under Rule 9.8.1 or a property sold under a single-party compensation agreement may be entered only for comparable purposes and after the close of escrow. The Listing Broker or Buyer's Broker shall secure written approval from the Seller and Buyer to enter the sales information into the MLS Database. The listing shall be entered into the MLS Database with the status of "Sold Off MLS" within 30 Days of close of escrow. When a listing is entered as a Comparable/Sold off MLS Listing, the On-Market Date entered shall be the date the listing agreement or single-party compensation agreement became effective.

**Compliance Tip: In order for a listing not sold through the MLS to be reported as a comparable listing on the MLS, the listing must have been properly excluded from the database and entered with a status of “Sold off MLS” within 30 days of the close of escrow.**

Click [here](#) for Comparable Listings Guidelines.

### **Submitted Listings with “Do Not Show” or “Not Accepting Offers” Instructions (Rule 10.3)**

A Listing Broker may instruct Buyer’s Brokers not to show a property, or not to submit offers, under the following provisions:

#### **10.3.1 Submitted Listings with “Do Not Show” Instructions.**

Approved Active listings shall be available for showings within three Days subject to tenant’s rights unless otherwise indicated in writing by the Seller. If a property is listed in the MLS Database with an Active status containing information that instructs Buyer’s Brokers not to show the property, the Confidential Remarks shall indicate the process for presentation of offers during the “do not show” period.

#### **10.3.2 Submitted Listings with Instructions to Not Submit Offers.**

If a property is listed in the MLS Database with an Active status containing information that instructs Buyer’s Brokers to not submit offers, the Listing Broker shall change the status of the property to “Temporarily Off-Market” until offers may be submitted; however, the Listing Broker may, with written authorization from the Seller, withdraw a listing from the MLS Database at any time.

### **Protection of Property (Rule 15.10)**

Extreme care shall be used by a Member to ensure that all doors and access points to the listed property to which the Member has had access and the lockboxes thereon are locked. A Member shall be physically present on the property at all times when providing access to a listed property unless the Seller has consented otherwise in writing.

**15.10.1 Use of Lockbox Contents.** Keys or devices used to access the property shall only be used to enter the property for the purpose of showing or selling the property unless permission otherwise is granted in writing by the Listing Broker or Seller. Members shall at all times follow the showing instructions published in the MLS Database. Members shall not remove contents of the lockbox for purposes other than facilitating the sale or lease of the property. While at the property, Members shall keep lockbox contents in their possession at all times after removal from the lockbox. The lockbox or contents shall not be removed from the property without prior consent from the Listing Broker. Members shall return key or device to access property to the lockbox upon exiting the property.

**Compliance Tip: Members must follow the showing instructions published in the MLS database and must be present on the property at all times when providing access to a listed property.**

### **Compatible Lockboxes; Multiple Lockboxes (Rule 15.11)**

**15.11 Compatible Lockboxes; Multiple Lockboxes.** If a lockbox or keyless access device is present on a property for the purpose of allowing agents access to that property and is located in the Primary Service Area (Sonoma, Marin, Napa, Solano or Mendocino) and listed for sale or lease in the MLS Database, a BAREIS-approved electronic lockbox shall be present, or a lockbox that is compatible with the BAREIS-approved system or has been otherwise approved in writing by BAREIS. The BAREIS-approved lockbox shall include a key, device, combination, or code to access property. This Rule 15.11 does not prohibit

the placement of additional lockboxes. Commercial, Multi-Unit 5+, and Business Opportunity listings are excluded from this Rule 15.11.

**Compliance Tip: If a lockbox is present on a property for the purpose of allowing agents access to that property and is located in Sonoma, Marin, Napa, Solano or Mendocino counties, a BAREIS approved lockbox must be provided and must include a key to access the listed property.**

### **Warnings**

Certain violations or repeat violations are not subject to a warning or may be subject to immediate citation, as set forth in EXHIBIT A2. For violations of Rules that are subject to a warning, the Member shall be given the warning to correct the violation by phone call or email contact. If a Subscriber has repeat violations of Rules that are subject to a warning, the Subscriber's supervising Participant shall receive notice of the third repeat violation by phone call or email contact. Any Member who, within a 12-month period, has been warned four times with the opportunity to correct for violations of Rules that are subject to a warning, shall receive an automatic fine for the fifth and subsequent violations within such 12-month period.

**Compliance Tip: Receipt of the fifth or subsequent violations of any Rule within a 12-month period will result in automatic citations.**

### **Citations**

If a Member fails to correct a violation of these Rules that is subject to a warning within the time allotted in the warning, the citation for the offense shall be issued and shall become due and payable.

### **Citation Payment**

If the Member fails to pay the citation (fine) within a 30-day period of invoice, a delinquency fee shall be assessed, and a delinquent notice shall be sent. If the total balance is not paid within 15 Days of the delinquent notice, BAREIS membership and MLS Privileges shall be suspended for that Member, in accordance with Rule 6.2.

**Compliance Tip: Fines are due and payable upon receipt. Failure to pay fines will result in suspension of service.**

Click [here](#) for Credit Card Authorization Form.

### **Member Request for Appeal**

Pursuant to Rule 16.1, "Citations," a BAREIS Member may request an appeal for a Rules violation citation to the Rules Committee of the BAREIS Board of Directors (the "Board"). If the Member desires to appeal the citation, the Member must pay the citation and administration fee, complete the BAREIS MLS® Rules Tutorial Course and Quiz and provide documentation together with a letter explaining why the fine was incorrectly levied. The request for appeal must be received by BAREIS within 14 Days of the notice of citation letter date (date postmarked or date of notification by electronic mail, facsimile transmission, and/or agent notice).

**Compliance Tip: In order to appeal a citation, the member must pay the fine, pay an administrative fee, complete online Rules Tutorial, and submit an appeal letter to the Rules Committee.**

Click [here](#) for Appeal Guidelines.



**Board-Initiated Hearing**

If any Member commits three violations within a 12-month period that result in either fines or warnings requiring corrections, the Board may, at its discretion, direct the Grievance Committee to review the Member's record of fines and warnings, which may result in a disciplinary hearing for further action. If a Subscriber who is under the supervision of a single Participant commits four violations within a 12-month period that results in either fines or warnings requiring corrections, the Board may, at its discretion, direct the Grievance Committee to review the Participant's record of fines and warnings, which may result in a disciplinary hearing for further action (See Rule 16.4.2(b) and 16.4.2 (c)).

**Conclusion**

Thank you for taking part in the BAREIS MLS® Rules Tutorial. We value you as a member and hope that the information reviewed today will prove to be valuable. We encourage you to visit <http://bareis.com/> regularly for additional information regarding BAREIS MLS® Rules as well as our products & services, to view BAREIS MLS® newsletters, and to gain access to BAREIS MLS® forms & guidelines.