



# Flexmls Compliance FAQs: Photographs and Media

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## **I just entered a listing in the MLS. How long do I have to submit a photograph?**

Per CRMLS Rule 11.5.1, at least one photograph or rendering accurately depicting a substantial portion of the exterior of the subject property must be submitted to the MLS within two days of entry of listing and must remain in the listing at all times for all statuses. Business Opportunity and listings that are cancelled within 5 days of entry are exempt from this Rule.

## **Is there a limit to the number of photographs I can upload for one listing in Flexmls?**

There is no limit to the number of photographs that can be uploaded to one listing.

## **Does the primary photograph need to be of the exterior structure of the property?**

No. While at least one (1) photograph must be of a substantial portion of the exterior of the property, it is not required to be posted as the primary photo.

## **Does the mandatory exterior photograph need to be of the front of the property?**

No. So long as the photograph includes a substantial portion of the exterior of the property, other views are permissible.

## **What constitutes a “substantial portion” of exterior of the property?**

A substantial portion of the exterior is defined as a portion sufficient to allow the viewer to determine the nature, condition, and relative location of the structure. For land listings, a photograph of the lot is permissible.

## **Can I put a photograph of the property on the MLS with my “For Sale” sign visible?**

No. This is considered “branding” and is prohibited on the MLS. Violations of this rule will result in the removal of the photograph and the issuance of a citation, per section 11.5(e) of the CRMLS Rules and Regulations. Because a branding advertisement occurs concurrently with the publication of the media, this violation does not receive a Warning Notice, and a citation with a fine will be sent immediately.

## **I have a land listing but cannot gain access to the property to take a picture. What do I do to fulfill the photo requirement?**

Parcel maps downloaded from public sources that confirm in writing the right of the user to use the image, are acceptable in these cases. An accurate rendering of the property is also allowed. Compliant “drone” photographs or images are often used in these situations.

Use caution when using satellite images sourced by Google, Bing or another third-party as these would likely be prohibited (see Questions 28-32).

## **Can I include photos of subject matter other than the property in my listing?**

Images that feature off-property locations or items not included in the sale of the property should be reasonably related to the property and should include an explanatory caption.

### **Can I include people or animals in my photos?**

Images that include people are only permissible where the people are both unidentifiable and incidental to the overall composition of the photo. For example, an aerial photo of a local beach which includes unidentifiable people enjoying the area is permissible. However, a photo of a downtown shopping district where the faces of the shoppers are identifiable is not permissible. Images that include animals are only permissible where the animals are incidental to the overall composition of the photos, and there is a reasonable basis for the animal appearing in the photo. For example, a listing for the sale of horse property that includes an image of the property with horses in the background is permissible. However, a closeup photo of a horse alone is not permissible.

### **Can I remove or alter the content of my photos (removing power lines, virtually staging the property, etc.)?**

Virtual staging and/or photoshopped images require captions disclosing any additions or alterations and may not unreasonably misrepresent what is included in the sale of the property or the scale or attributes of the property. Use caution in such manipulations and remember that even slight alterations should be disclosed. For example: Inserting virtually staged furniture into a room and reducing the size of the furniture to make the room dimensions appear larger would be a misrepresentation subject to a citation.

### **Can I use images copied from Google or Bing on my listing?**

No. By submitting any media to the MLS, the Participant and Subscriber represent and warrant that they own the right to reproduce and display the media or they have procured such rights and all necessary licenses from appropriate parties. Any media copied from or supplied by a third-party source must be supported by pre-entry written documentation which authorizes the listing agent and broker to use the images on the MLS. Importantly, Google and Bing limit the allowed uses of their images to "Non-Commercial" uses, and publication through the MLS is considered a commercial use.

Remember – Verbal permission to use media subject to copyright protection is insufficient for purposes of the MLS, and/or for your protection in general.

### **What documentation do I need if I am using photographs taken by a photographer?**

The listing agent and broker must obtain written documentation which authorizes the use of the images. This documentation may include but is not limited to the C.A.R. PIA (Property Images Agreement) form, or an otherwise acceptable assignment of rights or license agreement. Whichever document is used, it must provide an irrevocable, unrestricted, transferable, perpetual, royalty-free, and non-exclusive (with right to sublicense) right to the MLS to use, store, reproduce, compile, display and distribute the media as part of its compilation. CRMLS has observed that nearly all photographer-created license forms fail to provide the necessary license language even where they include reference to the MLS and should be used with caution.

Remember – Verbal permission to use media subject to copyright protection is insufficient for purposes of the MLS, and/or for your protection in general.

### **My seller provided me with photographs of the property and wants me to use them on the MLS. Can I do this?**

If the listing agent and broker are using photographs or media that they did not take themselves, written documentation from whomever rightfully holds the required rights or licenses to grant use of the images authorizing the use of the images must be obtained prior to the use of media. This documentation may include but is not limited to the C.A.R. PIA (Property Images Agreement) form, or an otherwise assignment of rights or exclusive license agreement. Whichever document is used, it must provide an irrevocable, unrestricted, transferable, perpetual, royalty-free, and non-exclusive (with right to sublicense) right to the MLS to use, store, reproduce, compile, display and distribute the media as part of its

compilation must be obtained from the seller if the seller is the creator of the content.

Remember – Verbal permission to use media subject to copyright protection is insufficient for purposes of the MLS, and/or for your protection in general.

### **Another Agent provided me with photographs and gave me permission to use them on the MLS.**

#### **Can I do this?**

If the listing agent and broker are using photographs or media that they did not take themselves, written documentation from whomever rightfully holds the required rights or licenses to grant use of the images authorizing the use of the images must be obtained prior to the use of media. This documentation may include but is not limited to the C.A.R. PIA (Property Images Agreement) form, or an otherwise assignment of rights or exclusive license agreement. Whichever document is used, it must provide an irrevocable, unrestricted, transferable, perpetual, royalty-free, and non-exclusive (with right to sublicense) right to the MLS to use, store, reproduce, compile, display and distribute the media as part of its compilation must be obtained from the seller if the seller is the creator of the content.

Remember – Verbal permission to use media subject to copyright protection is insufficient for purposes of the MLS, and/or for your protection in general.

### **An Agent who listed the same property before told me I could use his or her images from the MLS.**

#### **Can I do this without violating Rule 11.5?**

If the listing agent and broker are using photographs or media that they did not take themselves, written documentation from whomever rightfully holds the required rights or licenses to grant use of the images authorizing the use of the images must be obtained prior to the use of media. This documentation may include but is not limited to the C.A.R. PIA (Property Images Agreement) form, or an otherwise assignment of rights or exclusive license agreement. Whichever document is used, it must provide an irrevocable, unrestricted, transferable, perpetual, royalty-free, and non-exclusive (with right to sublicense) right to the MLS to use, store, reproduce, compile, display and distribute the media as part of its compilation must be obtained from the seller if the seller is the creator of the content.

Additionally, it is a violation of Rule 12.15 to use information copied from the MLS compilation. CRMLS does not provide written authorization or permissions to use media or other content found within Matrix. Images found to be copied from the MLS compilation will be removed immediately.

Remember – Verbal permission to use media subject to copyright protection is insufficient for purposes of the MLS, and/or for your protection in general.

### **How do I get photographs removed from Zillow, Trulia, etc.?**

The contract between CRMLS and Zillow requires Zillow to remove all photos (except one exterior picture) from the Zillow site upon the listing being sold for any listing Zillow receives from CRMLS. However, Zillow also receives information from some brokerage firms directly rather than from CRMLS, and in those cases the contract between the listing broker and Zillow controls the situation. In those cases, you will need to reach out to those syndication sites directly. CRMLS does not control the data that is shown on such data feeds that do not originate from CRMLS.