

Edward Zorn

From: Robert Reffkin <robert@compass.com>
Sent: Sunday, November 24, 2024 10:22 PM
To: Art Carter; Edward Zorn
Cc: Brad Serwin; Ashton Alexander; Kathy Mehringer; Jonathan Satz
Subject: Re: Request for CRMLS Action on Clear Cooperation
Attachments: CRMLS Board of Directors Letter_November 24 2024_2.pdf

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Art, Ed,

We are troubled by the lack of communication and collaboration from CRMLS. You are the only MLS that hasn't responded or been willing to have a dialogue about ways to provide sellers more choice to market their homes. Attached is a letter articulating these concerns to the CRMLS Board of Directors. Please share this with your Board.

A recently released [independent study by 1000WATT](#) found that 35% of prospective sellers desire to list their property off-MLS. Additionally, 1000WATT found that 66% of sellers see display of days on market as being bad for sellers and that 48% of sellers do not want price reduction information displayed for their property, which clearly demonstrates homeowners' desire for more choice and autonomy in how and where their home is marketed. Homeowners do not want to be forced to market publicly only through the MLS, and agents have a duty to honor their clients requests, which supersedes MLS rules.

Compass believes CRMLS is forcing every homeowner to market through the MLS to maintain their listing monopoly and to maintain power to force agents to pay dues, because access to the MLS is a practical requirement for agents in your market. An agent can't do their job without access to the MLS.

Failure to take swift and decisive action to either amend CRMLS rules or pause enforcement of Clear Cooperation before January 1, 2025 will leave us no choice but to pursue legal remedies and remove all Compass employees from positions held with CRMLS. We are prepared to take action not only against CRMLS for its anticompetitive, anticonsumer and damaging behavior, but also against all individual board members who perpetuate these harmful policies, other than our own Kathy Mehringer, who is on record saying she disagrees with these policies but has respected the decision of the majority Board on these matters as per role as a Board Member. Maintaining these policies perpetuates the following harms: (1) restraint of trade and coerced breach of statutory duty, (2) restrictions to pro-competitive innovations, and (3) increased likelihood of additional lawsuits and government investigations.

If CRMLS fails to act, we will also be forced to disclose the attached letter publicly, as our agents have asked us to take a more public stance with CRMLS to protect the interests of their clients.

I support a common sense approach where sellers have a choice of where, when, and how to advertise their home for sale. I welcome a dialogue with you, and your Board, to find solutions that balance the MLS goals of data integrity and cooperation with greater choice for homeowners.

Sincerely,

Robert Reffkin

P.S. Kathy, please ensure this letter is shared with your fellow Board members.

On Wed, Nov 6, 2024 at 11:32 AM Robert Reffkin <robert@compass.com> wrote:

Art,

I look forward to seeing you this Friday.

As you likely know, Compass has serious concerns about how the Clear Cooperation Policy restricts seller choice and is something we're confident brokerage firms will be forced to litigate in the New Year. **In writing this email, we are asking you to consider adopting the same policy as Bright MLS. We believe that all listings should be submitted to the MLS (so that the MLS can be the single source of truth), but that homeowners, with disclosure, should be able to decide how their home is marketed. Bright's interpretation of Clear Cooperation Policy accomplishes both goals.**

This past summer, Bright modified its interpretation of Clear Cooperation. Today, Bright allows 'Office Exclusives' to be publicly marketed, with seller authorization, meaning that the seller (and thereby its agent and their brokerage) have full control over the marketing for the listing, privately or publicly. They have also implemented enhanced disclosures to help ensure sellers are appropriately informed. We'd ask that CRMLS follow suit in the spirit of homeowner choice and to eliminate future litigation from brokerages that feel obligated to advocate for homeowner choice.

The video [here](#) (1:38 seconds into 2 min video at top of website) and excerpt below detail Bright's clarification and guidance on the rule change.

Bright Statement (excerpt from their interpretation of 'Office Exclusives'):

We are removing perceived limitations to [seller] instructions. [You] still must submit every listing [to Bright], regardless of how you market outside the MLS.... If "Office Exclusive" is selected based on the seller's instruction, then: [1] Bright won't share with subscribers or on the Internet [and] [2] Broker may otherwise market per the seller's instructions, within the brokerage or publicly - must be based on seller's instructions; otherwise must be Active.

Rules Flexibility Added Aug. 14

Limited Marketing/"Office Exclusive"

We are removing perceived limitations to client instruction

- Still must submit every listing, regardless of how you market outside the MLS
- **Bright's listing entry system uniquely enables entry of listings where the seller instructs the broker to restrict marketing only to the broker's network**
 - Easy to enter: Select "Office Exclusive" and enter a few fields of basic information
 - If "Office Exclusive" is selected *based on the seller's instruction*, then:
 - Bright won't share with subscribers or on the Internet
 - Broker may otherwise market *per the seller's instructions*, within the brokerage or publicly – must be based on seller's instructions; otherwise must be Active
 - Switch to Active when your client decides to use the open market

We launched a website on Friday, which outlines our position on the flexibility needed for the homeowner and why - <https://www.compass-homeowners.com/>. We're giving individual homeowners the same playbook and best practices real estate developers and professional home builders have benefited from for years. Their carveout from Clear Cooperation has given them *choice* in how they market hundreds of thousands of homes a year.

We've shared the site with all our agents, and they've shared it with their clients -- the message is resonating with homeowners and they are asking for the marketing flexibility that we're advocating for. It was important to me that I gave you the visibility directly.

I've included Ashton Alexander here, our Head of Strategy, to find a time that could work for you and your team to discuss any next steps.

Robert

Robert Reffkin | Founder & CEO

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