

# Private, Not A Secret

An inside look at off-MLS listing solutions



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This document is available online: [www.mredllc.com](http://www.mredllc.com)  
or directly at: <http://bit.ly/MRED-PLN-White-Paper>

# Executive Summary



**"How can I best serve my clients when I don't have the entire inventory of homes? These pocket listings make me look bad in front of my client!"**

We have all likely heard this frustration from real estate professionals. Listings held off the multiple listing service (MLS) continue to stir controversy across the country. MLSs have been individually coming up with solutions and adapting their business rules to address the issue.

In November 2019, The National Association of REALTORS® (NAR) Multiple Listing Service Issues and Policy Committee will be voting on a proposal that enables MLSs across the country to effectively address this important issue.

## **NAR Proposed MLS Policy Statement 8.0**

**Within one business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. 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 communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.**

Midwest Real Estate Data (MRED), the Chicagoland MLS, which serves more than 45,000 real estate professionals, adopted a similar policy several years ago. MRED continuously advocates for collaboration across the industry so that together, we can all solve important issues more effectively. This white paper has been created to outline the problems and share solutions that MRED and other MLSs across the country have developed regarding off-MLS listings. It includes a deeper look into policy considerations, legal issues, technology solutions, support and training documents, association legal forms, and statistics. MRED also feels it is important to voice support for the NAR policy proposal so that the MLS industry can maintain an efficient and effective marketplace.

## MRED's Path to a Private Listing Network (PLN)

In 2015, MRED saw signs of a marketplace out of balance; private listing clubs, closed Facebook groups, brokerage apps, and 'coming soon' yard signs emerged at an alarming rate. The market was responding to this imbalance. The MLS was not. MRED concluded this could pose a real threat to the MLS marketplace. Surveys were sent. Feedback was collected. Focus groups were held. MRED's exhaustive research resulted in a unique solution called the Private Listing Network (PLN), which has successfully addressed the market imbalance seen in 2015.

MRED found five primary reasons why real estate agents withhold listings from the MLS marketplace.

- Seller privacy concerns
- Properties that need repairs
- Pre-marketing strategies
- Bank-owned listings
- Price testing

Despite the well-intended nature of these reasons, the cooperative marketplace that helps the industry thrive is placed in jeopardy when a significant portion of listings are held off-MLS. The problem is further compounded by incomplete historical records that limit appraisals, CMAs, and county assessor valuations, which rely on MLS data.

Legal and ethical issues regarding off-MLS listings include the ability of agents to fulfill their fiduciary duties to clients, fair housing discrimination concerns, and proper disclosure of marketing practices to clients. Some REALTOR® associations have created disclosure forms to reduce liability. An example of this is included in this report.

Although MRED's policy is very similar to the NAR proposal, there are some key differences. First, the policy does not apply to rental or commercial property types. MRED focus groups indicated the nature of these transactions are substantially different than their residential for-sale counterparts. MRED's Board was comfortable with this exemption because the off-MLS complaints were not primarily located in this segment of the market.

Second, listings submitted to the PLN are not syndicated to third-party websites, nor are they included in IDX/VOW. All MRED subscribers have access to the PLN inventory; it was designed to be a communication tool among MRED subscribers only. There are restrictions regarding sharing information from the PLN with consumers.

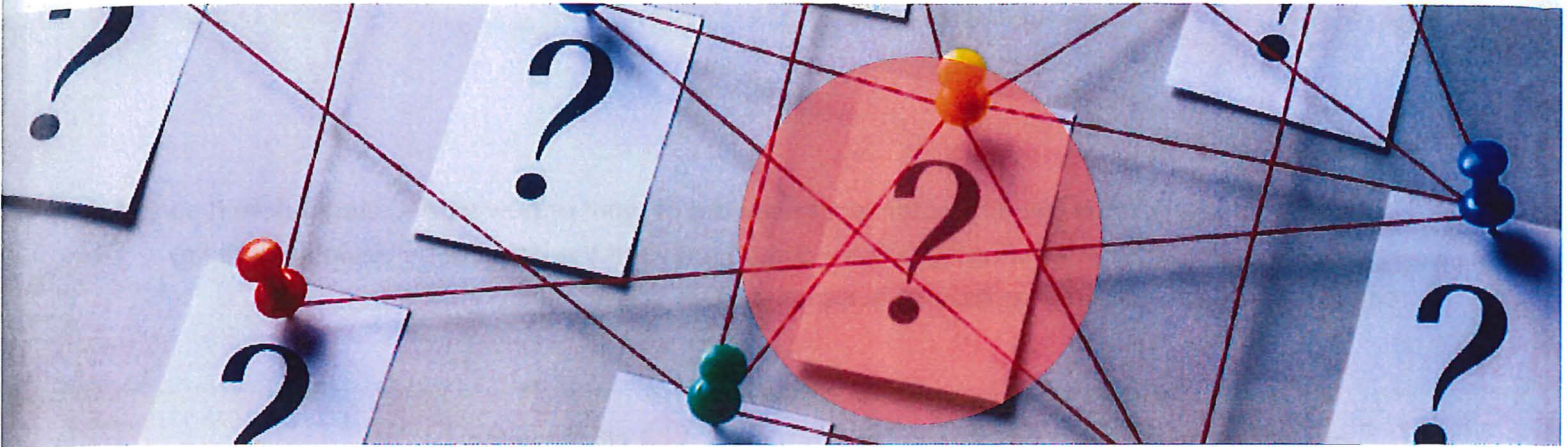
Focus groups also felt strongly that MRED's technology solution was a critical component for adherence to the 24-hour rule. The PLN was intentionally designed to enable agents to input a listing from their mobile device within a few minutes. The PLN input process does not have the same required listing fields or business rules of the regular MLS (called the Standard Listing Network, or SLN). This approach takes away some of the reasons cited by agents who voiced concern about their ability to input a listing within 24 hours.

Training material and communication documents included in this report outline the difference between the PLN and SLN. Once a listing submitted to the PLN has sold, MRED's rules state that the listing must be fully input, with all information, into the SLN so that it can be used in statistics, CMAs, appraisals, etc.

Although MRED has had the PLN since 2016, we felt it would be beneficial to include the most recent statistics to answer questions about its impact in Chicagoland. In 2018, approximately 6% (7,759 listings) of MRED's sold inventory utilized the PLN. The overwhelming majority (96%) changed listing price when moving from the PLN to the SLN. Additionally, an interesting statistic from this 96% is that more listings received a price increase when moving to the SLN. This illustrates that one of the primary reasons agents held listings off-MLS is to test the listing price prior to fully marketing a property.

Today, MRED's complaints regarding off-MLS listings are infrequent and customer satisfaction scores have steadily increased since the PLN's implementation in 2016. We support NAR's proposed policy change and feel it helps MLSs maintain a valuable, cooperative marketplace.

# Defining the Problem



- ★ In 2014, the COVE group sent a survey about “off market or pocket or whisper” listings to its 23 MLS and listing organization members, a collective that at the time represented nearly 500,000 subscribers and 83,000 firms. Of this group, nearly 80% viewed these types of listings as a “challenge in their markets” and more than half reported the challenges had increased. <sup>1</sup>

After receiving the results of this survey, MRED conducted additional market research to more fully understand the issue.

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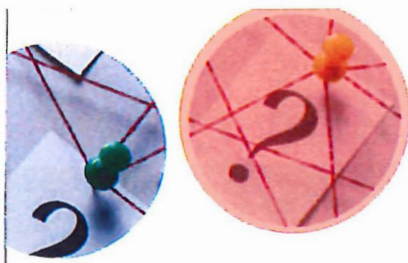
## What are the Common Reasons Listings are Withheld from the MLS?

It’s no secret that listing agents want to get listing agreements signed as soon as possible, regardless of policy and property condition. This was a unifying thread among the reasons MLS customers had for withholding listings: listing agreements had been signed, putting pressure to get them into the MLS within the appropriate time, yet there were several situations that required withholding the properties from public view:

### Privacy

Some sellers (e.g., celebrities, politicians, etc.) want to prevent information about their house or the fact that they’re selling from becoming public knowledge. For example, one Chicagoland-area agent was working with a homeowner who had been diagnosed with cancer and needed to sell their house. The client did not want their family to know they were selling their house, so the listing could not be syndicated to third-party portals. Some celebrities are also worried about their own personal security or the home’s security if the location of their home becomes public.

<sup>1</sup> (<https://www.mredllc.com/comms/resources/CovePocketListingSurvey2014.pdf>)



# Defining the Problem

## Repairs

A house needs work done (repairs, staging, a fresh coat of paint or new carpet, etc.) before it can be shown. Many agents sign a listing agreement, but do not want the home to be viewable until key repairs, upgrades, and clean-up have been completed.

## Phased Marketing

Phased marketing occurs when agents build hype and demand around a property by word of mouth before taking the listing to the market with a professional marketing package. These packages take time to assemble and are done after listing agreements have been signed.

## Testing the Market

Agents often use off-MLS listings to test the market for pricing before ultimately putting a home in the MLS. Often the price of the first unit being listed in a new development is uncertain and the listing agent can test the price or price range to test the market. Frequently, sellers and agents have different expectations on list price; sellers who are on the fence about selling their home will only consider it if they have some assurance of making a certain amount of money with the sale of their home. Testing the market through MRED's PLN allows for feedback to be submitted on a listing's proposed price or price range. This helps prevent an overpriced listing from making it to the full market, where the price would need to be dropped after sitting on the market for a period of time, becoming stale.

## No Showings

Many MLS rules require properties to be available for showings by all participating agents. Some sellers simply want to avoid opening up their home for showings and opt to hold them off-MLS. The presence of iBuyers (where showings are cut out of the process) is an emerging, relevant consideration to this reasoning.

## REOs

Banks sometimes assign Real Estate Owned (REOs) and other bank-owned properties to agents, months before the bank is able to update and sell or show the property. During this time, the agent is listed as the contact person but is unable to provide much, if any, information about the listing.

All of these scenarios are legitimate reasons to market a property outside of the standard MLS process of syndication and IDX/VOW distribution. Agents facing these common situations rightfully look to act in the best interest of their clients by marketing the property outside of many of today's existing MLS rules.

# Unintended Consequences of Off-MLS Listings



The public has a right to their privacy, a right not to host showings, and a right to make their listing the best it can be before it's seen by the world. However, the practice of withholding listings in an attempt to gain a market advantage is not in the spirit of cooperation and has the potential to undermine the core value of MLSs.

## Impact on Buyer's Agents of Listings Held Off-MLS

Some of the business practices surrounding off-MLS listings can hurt the perceived industry knowledge and professionalism of buyer's agents in certain scenarios:

- Off-MLS transactions negatively impact the accuracy of historical data and the availability of comparables in the MLS. This problem is particularly troublesome in a luxury market, where a few multi-million-dollar homes missing from the historical data will significantly skew the median home price and days on market. The absence of important transactions also hinders an agent's ability to provide a comprehensive and accurate Comparative Market Analysis (CMA).
- Clients see For Sale signs and print advertisements for homes that are not yet shown in the MLS. These clients contact their agent for more information on a listing, and it is difficult for that agent to track down information about the property.

# Unintended Consequences of Off-MLS Listings

## Impact on Seller's Agents of Listings Held Off-MLS

- Limiting the exposure of a listing to a subset of the market can reduce its ultimate selling price, which brings the ability of the listing agent to fulfill their fiduciary responsibilities to their seller into question.
- Some agents might try to double end a sale (dual agency) and risk not representing the best interests of both parties.
- If the seller is not made fully aware of the limitations on marketing imposed by keeping a listing outside of the MLS, it may be a violation of applicable Code of Ethics and local license laws.
- Some county assessors use data directly from the MLS in performing their valuations for taxing purposes. Off-MLS sales might trigger an automatic audit of the property value by the local assessor.

## Third-Party Responses to Off-MLS Listings When MLSs Don't Act

These problems worsened with new services being created for off-MLS listings. In the Chicagoland area alone, an individual brokerage released an app specifically for "Pocket Listings" and the Top Agent Network was gaining inventory with listings being circulated only among high-volume agents. <sup>2 3</sup>

Elsewhere, the Pocket Listing Service launched in 2017 and has since garnered 15,000 members and 2,500 listings on their website, mainly in the Southern California and South Florida areas. ThePLS.com founder Chris Dyson stated this off-MLS site was borne out of the desire to give control of listings back to the agents who cultivated them. <sup>5</sup>

A "secret market of private real estate listings," article featured on CNN informed consumers of common reasons listings are held off of the MLS, and the growing popularity of this practice. <sup>6 7</sup>

<sup>2</sup> <https://www.inman.com/2013/03/07/app-lets-properties-agents-market-listings-each-other/>

<sup>3</sup> [\(https://www.washingtonpost.com/news/where-we-live/wp/2014/03/24/in-tight-market-pre-listing-sites-becoming-popular/\)](https://www.washingtonpost.com/news/where-we-live/wp/2014/03/24/in-tight-market-pre-listing-sites-becoming-popular/)

<sup>4</sup> <https://www.forbes.com/sites/ellenparis/2019/07/30/the-advantages-off-market-real-estate-listings-give-buyers-sellers-and-agents/#2053cf1a1d5a>

<sup>5</sup> <https://therealdeal.com/miami/2019/06/27/pocket-listings-flourish-in-south-florida-as-agents-eye-new-platforms/>

<sup>6</sup> <https://www.cnn.com/2019/04/18/success/private-listings/index.html>

<sup>7</sup> <https://www.mansionglobal.com/articles/whisper-listings-can-mean-deals-to-buyers-but-most-benefits-go-to-the-seller-207442>



# Legal and Policy Considerations



**There are several legal and policy considerations relevant to off-MLS listings and the MRED PLN.**



The MRED PLN facilitates marketing and distribution of listings to all brokers. This has the potential to reduce the risk of potentially discriminatory, limited distribution of listings. While listing clubs, closed Facebook groups, and other private marketing avenues may not purposefully violate fair housing laws, potential discrimination risks (including the appearance of discriminatory marketing) may exist with these channels.

Additionally, appraisers must comply with the Uniform Standards of Professional Appraisal Practice (USPAP), which is a national set of standards applicable to most appraisers in the country. This standard generally prohibits use of comparables that were not exposed to the full market.

USPAP guidance states that, "If a property has not been marketed on MLS or another regional database, the appraiser must make sure that the property was exposed to the open market for a reasonable time before it can be used." <sup>8</sup>

Appraisers therefore must routinely consider whether a particular off-MLS listing may be included in an appraisal, depending on whether it was marketed publicly and for how long.

The PLN ensures that a record is maintained of the widespread distribution of a property in the MLS, improving appraisers' confidence about a listing's use as a comparable.

The MRED PLN also does not implicate antitrust concerns because it is equally accessible for all MLS subscribers and does not discriminate as to a broker's business model or marketing methods. Instead, the PLN fosters competition among brokers by providing a simpler, faster way to list properties in the MLS and market them only to MLS participants.

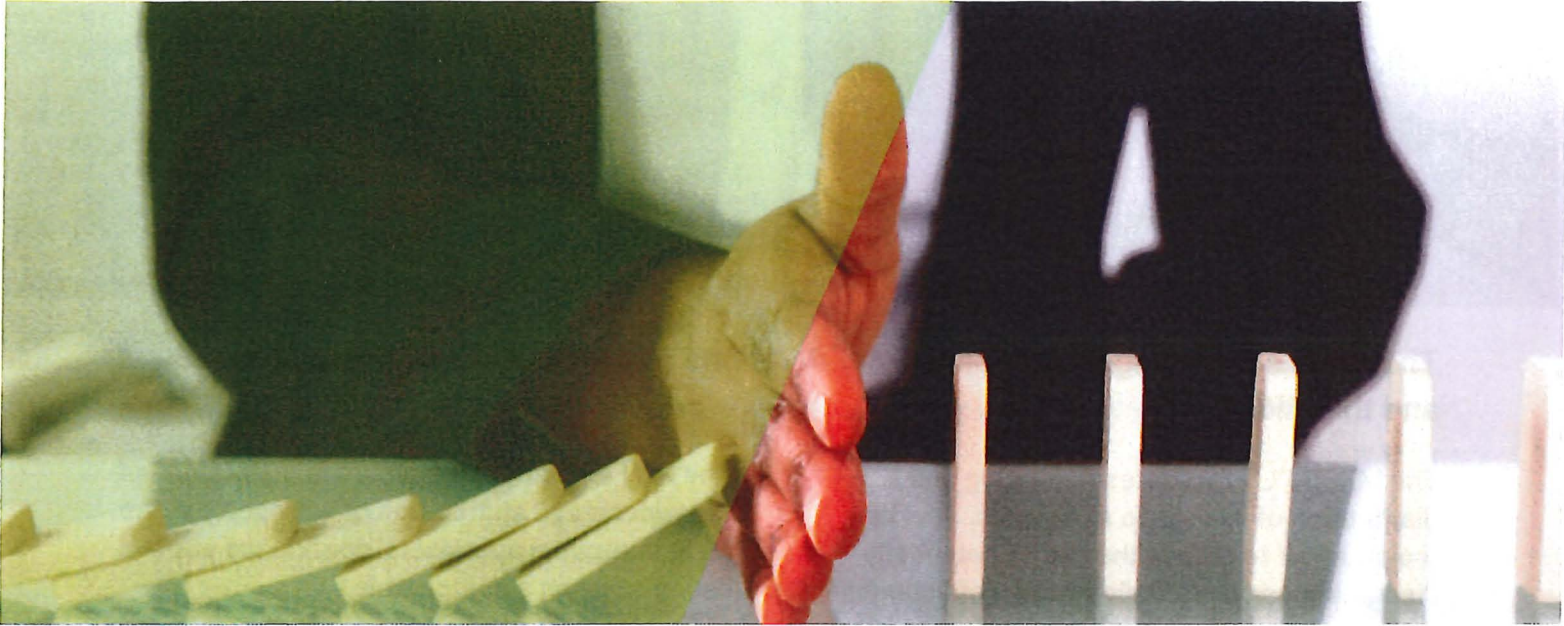
Of course, use of the PLN is subject to all other MLS rules. So, for example, showings must be allowed (or not allowed) on a uniform basis to comply with Code of Ethics standards and avoid potential arbitration disputes.

We also note that many brokerages and associations created an addendum to their listing agreements to accommodate use of the PLN. In order to protect agents and consumers, these forms outline the practices of the different marketing strategies. MRED Association member Mainstream Organization of REALTORS® has provided their form in Exhibit A for your reference, a listing addendum. <sup>10</sup>

<sup>8</sup> (<http://www.uspap.org/files/assets/basic-html/page-27.html>)

<sup>10</sup> (<https://www.mredllc.com/comms/resources/MOREPrivateNetworkAddendum.pdf>)

# How are Other MLSs Around the Country Addressing the Off-MLS Problem?



The industry works better when our collective experience and knowledge is shared, so MRED asked other MLSs what they are doing to address listings that are not making it into their MLS database. The leadership of several MLSs provided us with the below descriptions of their solutions to the off-market listing challenges they face on a daily basis.



**Austin Board of REALTORS®** in Texas implemented a CS (coming soon) status in July 2016. Showings were not permitted per the status definition. The usage of the status continued to stir controversy in the marketplace and the CS status was discontinued in August of 2018.

- CS status was available for 14 days from the date of listing before requiring all active fields. Beyond 14 days would default to Temporary Off Market status.
- The CS status could be shared via auto-emails, direct emails, printed material, exported data and VOWs.

# How are Other MLSs Around the Country Addressing the Off-MLS Problem?



**Canopy MLS** in North and South Carolina updated its "Coming Soon-No Show (CSNS)" status in 2018 to include listings under this status in RETS data feeds for display on IDX and VOW websites and mobile applications. However, these listings are not syndicated to third-party portals.

- Canopy's 2018 status update also added CSNS listings in emails through the MLS to clients and on its Client Portal. Additionally, this update allowed listing agents to advertise CSNS listings on the Internet and social media.
- CSNS listings require a seller-authorized form and must designate a marketing date no more than 21 days from the date the listing is submitted to the MLS, at which time the listing will automatically convert to an active listing.
- Prior to the marketing date, the listing does not accrue market time and does not require a photo. However, a photo must be added immediately following the listing's conversion to active.
- Canopy MLS advises the CSNS status is not for "Pocket Listings", and all of its subscribers are able to view these properties.
- Showings and Open Houses are prohibited for listings under the CSNS status, as Canopy MLS designates the use of this listing status for listings that require minor updates before it is ready to be shown. However, showings may be scheduled for the marketing date or later while a listing is under CSNS status.
- Listings may be activated prior to the date specified; they may also be extended if the original active date was fewer than 21 days from the date of submission.



**MetroList** in California provides its subscribers with an MLS Listing Waiver, a written seller authorization that permits the listing broker to withhold a listed property from the MLS with the understanding that the seller does not want the property displayed or marketed through the MLS.

- There are no restrictions on marketing properties that are on a MetroList Listing Waiver.
- If the listing is sold while on waiver, it may not be entered into the MLS as a Comparable.
- If the agent is not successful in selling the listing while on waiver and later enter it into the MLS, the Days on Market will accrue from the original Listing Date listed on the Waiver and NOT the date that the listing was added to the MLS.
- The MLS Listing Waiver is used for rare occasions when a seller does not want to have their property listed in the MLS. The MetroList Board of Directors believes the better option is to enter the listing into the MLS because the MLS is the most effective method of achieving the quickest sale and highest price for your listed property.

# How are Other MLSs Around the Country Addressing the Off-MLS Problem?



**Northstar MLS** in Minnesota launched its “Coming Soon” status in November 2018 as a response to consumer and agent demand.

- This status allows agents to pre-market new listings through the MLS for up to 21 days, until it is ready for showings.
- This status also requires a special seller-signed authorization form to be uploaded with the listing.
- Properties in this status do not accrue market time and cannot be shown, but showings may be scheduled for dates after the listing is no longer in the “Coming Soon” status.
- The listing is viewable by other Northstar MLS agents and can be shared with their clients via email, print, and their Client Portal. Broker/Agent IDX websites receive these “Coming Soon” listings and may choose to display them, however these listings are not available to non-IDX third-party websites.
- Listings that are withheld from Northstar MLS with a withhold form that the MLS provides are not subject to MLS rules.



**Northwest MLS (NWMLS)** in Washington revised its listing agreements and rules in 2013 to address two significant issues raised by the members. The first issue related to providing the listing firm and seller with sufficient time to prepare a property for sale after a listing agreement has been executed and before a listing is submitted to NWMLS. The second issue related to members promoting and advertising a property for sale before a listing is submitted to NWMLS.

- The listing agreement allows the listing firm and the seller to choose the date the property will be submitted to NWMLS as an Active listing (“List Date”), but must not be more than 30 days after the listing agreement is executed.
- Another provision in the listing agreement prohibits both the listing firm and the seller from promoting or advertising the property in any manner whatsoever before the listing is submitted to NWMLS.
- A related rule change was made to prohibit members and subscribers from promoting or advertising any property in any manner whatsoever unless a listing for that property has been submitted to NWMLS as Active.
- The exception to the above rule is that NWMLS does not prohibit a builder from including a member's or subscriber's name and contact information in the builder's new construction promotions before the property is listed for sale.

# How are Other MLSs Around the Country Addressing the Off-MLS Problem?

## SMART

**SmartMLS** in Connecticut revised its rules in the spring of 2019 to further define the most common listing situations and educated its users on the proper use of each status. SmartMLS also requires the listing agreement to be uploaded as a private document on all listings.

- The first is “Traditional Listing” which must be ready to act as a normal listing within 48 hours of the signed listing agreement.
- “Delayed Listings” are SmartMLS’ most frequently used status, as these listings can be input into the MLS but are not submitted as full listings until their “Go active” date, at which point these listings may be shown and publicly marketed.
- “Coming Soon” listings are submitted into the MLS within 48 hours of the signed listing agreement and can be publicly marketed at this point, however showings must only be scheduled for after their “Go active” date, which cannot exceed 14 total days as a “Coming Soon” listing.
- Listing marked “Withhold” are submitted to the MLS but are not displayed to any other agents or distributed to third-party portals at the direction of the seller, who must sign a form.

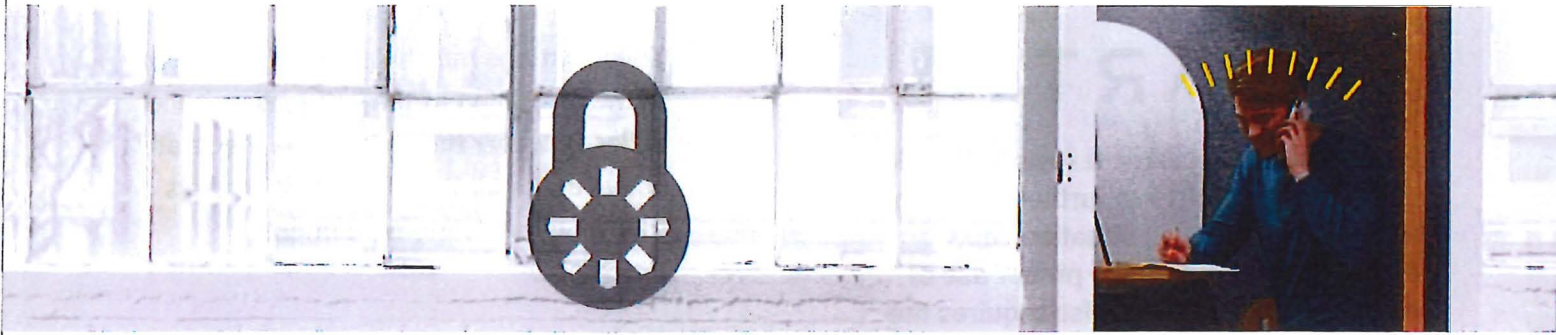
- These listings may be publicly marketed at the discretion of the listing agent and seller, however they cannot be made as active in the MLS until at least 30 days following the listing agreement execution.



Georgia-based **First Multiple Listing Service, Inc. (FMLS)** launched its “Coming Soon” status in 2019, a status that is only available to FMLS members.

- This status serves to let agents and brokers know about listings that will be going live in the near future to create excitement and generate exposure.
- Agents must have a listing agreement and seller’s permission to use this status.
- Agents must provide a “Go Active” that is 21 days or fewer from the entry date.
- Listings automatically change to active at midnight on the day of the “Go Active” date.
- “Coming Soon” listings are not distributed to agent, public-facing, or syndication websites until the “Go Active” date.

# MRED's Solution: The Private Listing Network (PLN)



MRED, located in Illinois and serving more than 45,000 real estate professionals, launched the Private Listing Network in its MLS system, connectMLS, in 2016. This solution accommodates pre-market “Coming Soon” listings as well as listings that would otherwise be kept off the MLS.

MRED's Private Listing Network is a pro-MLS policy combined with a software solution that supports a variety of scenarios where off-MLS listings are required. In effect, MRED has created the PLN so that agents do not feel the need to go around the MLS to promote certain types of properties that are not appropriate to be featured as a standard MLS listing.

The software, housed inside of connectMLS, is a separate network of properties that provide flexible and simple rules in order to participate.

Below is a comparison of MRED's Private Listing Network, Standard Listing Network (SLN), and Exempt Listings options:

|   | Private Listing Network | Standard Listing Network | Exempt Listing (Not in MLS) |
|---|-------------------------|--------------------------|-----------------------------|
| Requires a listing agreement  | ✓                       | ✓                        | ✓                           |
| Can be sent through IDX/Broker Reciprocity Programs, to clients through connectMLS (including Homesnap), and syndication websites   |                         | ✓                        |                             |
| Can be marketed to the general public on an open website (Public Facebook page, Craigslist, etc). <i>Publicly marketing an exempt listing would be in violation of MRED's rules</i> | ✓                       | ✓                        |                             |
| Requires an offer of compensation   | ✓                       | ✓                        |                             |
| Listings are required to be added within 48 hours of listing agreement or 24 hours of public marketing; whichever comes first   | ✓                       | ✓                        |                             |
| Listings accrues market time  |                         | ✓                        |                             |
| Requires listings to have photos  |                         | ✓                        |                             |

**MRED modified several business rules to accommodate the unique needs of Off-MLS Listings for its Private Listing Network:**

- PLN listings do not require a specific listing price. Options include: none, price, or price range.
- Photos are not mandatory.
- All MRED subscribers have access to the PLN database, not just an exclusive subset of real estate practitioners.
- PLN listings are not sent to third-party portals nor are they part of IDX/VOW listing distribution.
- Listings must be entered into the PLN within 48 hours of the list date or 24 hours of advertising to the general public, whichever comes first. Public advertising includes mediums such as for sale signs, public websites, and print media.
- If a transaction closes while the listing is in the PLN, MRED subscribers are required to transition listings from the PLN to the SLN, where they input all required fields for the listing so that it can be used as a comp.
- MRED also provides the option to withhold a listing from the MLS entirely at the direction of the seller, who must sign a form. Per MRED rules, these listings may not be marketed to the general public on an open website, for sale signs, or publicly accessible print advertising.

**Other key considerations:**

- A signed listing agreement is required for PLN listings.
- Brokerages may receive and display a feed of their own PLN listings.
- Agents can attach agent-only comments on PLN listings such as the date available for showing, open house information, additional compensation information, etc.

- PLN listings can be easily transferred to SLN drafts and published into the traditional MLS without having to create a new listing or cancel the PLN listing.
- Listings may be kept in the PLN indefinitely and Days on Market do not accrue, however a history of when the listing was submitted to the PLN is recorded and is viewable by all MRED subscribers on a history report.

**Required fields in MRED's PLN listings are listed below (other fields, not listed, are available but not required):**

- Property Type (single family, mobile, land, etc)
- Area
- Street number
- Street name
- Street suffix
- City
- State
- Zip code
- County
- Expiration date

Showings yes/no? (Yes = must show to all agents. No = may not show to anyone)

- List broker ID
- List office ID
- Special compensation info (short sale, court approval required, exceptions, variable, bonus)
- Compensation paid on (net or gross)
- Cooperative compensation remarks
- Can this listing be shared with clients?
- Order a virtual tour
- Are any photos virtually staged?

# Policy

Below are MRED's Rules and Regulations that incorporate the addition of the PLN.

## **MRED's Rules and Regulations Section 1: <sup>11</sup> Listing Procedures**

Midwest Real Estate Data accepts listings of real properties, which are listed by a licensed real estate broker and are located within the combined territorial jurisdiction of the Associations/Boards that Midwest Real Estate Data provides services to, and in the State of Illinois and beyond this jurisdiction at the option of the Listing Broker, which shall be placed into Midwest Real Estate Data's MLS (PLN (Private Listing Network) or SLN (Standard Listing Network) (hereinafter referred to as the "Service") within 48 hours of the effective listing date or within 24 hours after the real estate broker advertises the real property to the general public through a website or utilizes any publicly accessible print advertisements, including for sale signs, whichever is earlier.

## **MRED's Private Listing Network policy applies to all for sale residential properties and reads as follows in MRED's Rules and Regulations Section 1(d): Private Network: <sup>12</sup>**

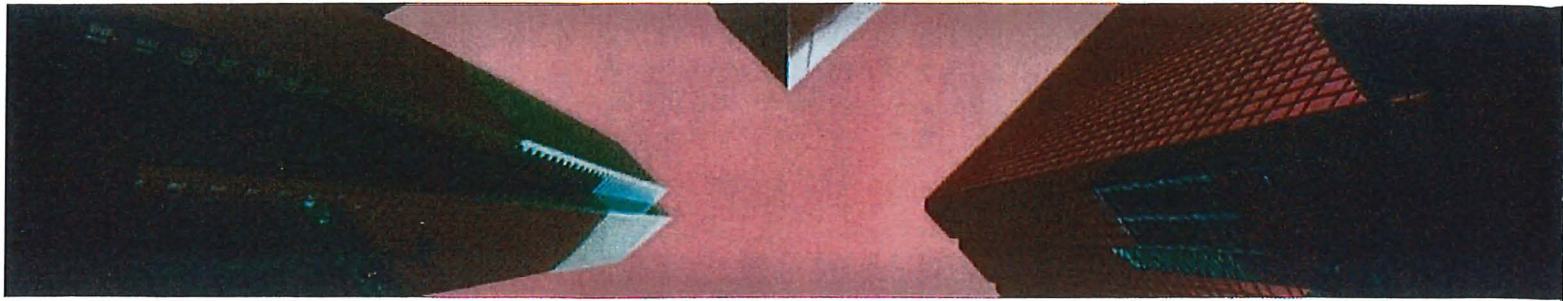
The MRED Private Listing Network ("PLN") is a tool for Participants to provide "mini-drafts" of property information for those listings the Participant chooses to place in the PLN. Listings placed in the PLN must be the subject of a Listing Agreement, in accordance with all other listing agreement requirements contained within Section 1(b). The fields in the PLN are a small sub-set of the required fields in the standard MLS database. Please see Section 9.10 for further information regarding required fields. PLN Listings may be viewed exclusively by Participants of MRED's MLS system and are not included in MRED's IDX/Broker Reciprocity Program, client emails or feeding to syndication sites. The listing agent must approve and/or be contacted for approval to share information about the property with clients. There is no minimum or maximum period of time listings can be included in the PLN, as long as the time chosen is within the parameters of the written listing agreement. Listing History is maintained on PLN listings, but other MLS system functionality normally available is not on PLN listings, i.e. market time, saved searches, statistics or prospecting. The listing can go from the PLN to any other status, where it will be treated as all other properties in that status. Transactions where procuring cause was produced from a PLN listing must be entered into the standard database and reported closed. PLN listings can expire and are retained in the PLN displaying as Expired with a Type of Private (PRIV).

<sup>11</sup> <https://www.mredllc.com/comms/resources/MREDRulesAndRegulations.pdf>

<sup>12</sup> <https://www.mredllc.com/comms/resources/MREDRulesAndRegulations.pdf>



# Policy



## **MRED Rules and Regulations Section 1.5: Detail on Listings Filed with the Service: <sup>13</sup>**

A listing when placed with the Service by the Listing Broker shall be complete and accurate in every ascertainable detail or be subject to a fine under Section 9.10 and shall include the listing price stated in the exclusive brokerage agreement except when the listing is placed in the PLN, where the entry of a price, no price, or a price range is allowed.

## **MRED Rules and Regulations Section 2.5: Reporting Status of Listing: <sup>14</sup>**

**l) Private (PRIV) – listings placed in PLN; property can or cannot be shown as indicated**  
PLN listings can expire and are retained in the PLN displaying as Expired with a Type of Private (PRIV).

## **MRED Rules and Regulations Section 6.1.1: Photographs: <sup>15</sup>**

All listings except vacant land, new construction, confidential commercial listings, PLN listings and deeded parking/boat slips must have a primary photo in the system within seven (7) days of their entry into the system.

## **MRED Rules and Regulations Section 9.3: Submission of New Listings: <sup>16</sup>**

For any new listing required to be entered, there shall be a \$1,000.00 fine for failure to place the listing in the Service within 48 hours of the effective listing date or within 24 hours after the real estate broker advertises the real property to the general public through a website or utilizes any publicly accessible print advertisements, including for sale signs, whichever is earlier. Computer failure shall not be an excuse for such failure. The 48-hour requirement shall include weekends and holidays

## **Policy Exceptions**

MRED's Private Listing Network does not apply to rental and commercial property types. Focus groups and MRED's Board determined that these types of transactions are exempt from the 24-hour rule due to the different nature of rental and commercial transactions.

<sup>13</sup> (<https://www.mredllc.com/comms/resources/MREDRulesAndRegulations.pdf>)

<sup>14</sup> (<https://www.mredllc.com/comms/resources/MREDRulesAndRegulations.pdf>)

<sup>15</sup> (<https://www.mredllc.com/comms/resources/MREDRulesAndRegulations.pdf>)

<sup>16</sup> (<https://www.mredllc.com/comms/resources/MREDRulesAndRegulations.pdf>)

# Knowing the Numbers | 2018 Statistics

## General Information

- Approximately 4% of MRED listing inventory is in the PLN at any given time.
- 6% of closed listings began in the PLN.
- Agents do not change their workflow when creating a listing in either the PLN or SLN, usage reports indicate both databases' most frequent listing input entry days are Thursday, Friday, and Wednesday, respectively.
- Less than 1% of PLN listings closed as double-sided transactions, compared to 6.7% in the SLN.

## How does the PLN impact Days on Market?

- If a listing starts in the PLN (which doesn't accrue days on market), it averages 33 days on the market before it sells.
- If a listing starts directly in the SLN, it spends an average of 40 days on market before it sells, 7 days longer than the PLN.

## How does the list price change when moving from PLN to SLN?

The price changes on 96% of PLN listings that are transitioned to the SLN.

Approximately 72% increase and 24% decrease the price.

- When the price is increased, it is by an average of 8%.
- When the price is decreased, it is by an average of 5%.

| MRED   Total 2018                           | Private Listing Network (PLN) | Standard Listing Network (SLN) |
|---|-------------------------------|--------------------------------|
| Number of Listings Sold                     | 7,759                         | 132,372                        |
| Average Sales Price to List Price           | 96%                           | 95.5%                          |
| Median Sale Price                           | \$295,500                     | \$230,000                      |
| Average Sales Price                         | \$364,577                     | \$291,344                      |
| Average Days on Market (on sold listings)   | 33                            | 40                             |
| Double Ended Transactions                   | < 1%                          | 6.7%                           |
| Average Days on Market (on active listings) | 62                            | 76                             |
| Median Days on Market (on active listings)  | 27                            | 33                             |

## Pricing Comparison between PLN and SLN

Interestingly, the average sale price to list price is 0.6% higher with listings in the PLN. This data suggests that the PLN allows for a more accurate list price.

Listings that begin in MRED's PLN also tend to have higher sale prices than their straight-to-SLN counterparts. This could be because more high-end and luxury listings are placed in the PLN.

# Implementation and Impact in the MRED Marketplace



MRED's focus group felt it was extremely important for PLN listings to be quick and easy to submit via mobile devices because of the 24 hour time constraint. Also, agents representing sellers who were on the fence would be more likely to share a few fields as they test the market, but the full listing detail required in the SLN disincentivized the submission of these listings. As a result, there are only a minimum number of fields required for PLN listings, many fewer than are required for a standard MLS listing.

Since implementing the PLN, MRED has seen it become a frequently used staple of the MLS database. There has also been a dramatic decrease in the number of "Pocket Listing" complaints from subscribers.

Brokerages have also commended MRED's policy for its ability to combat fragmentation and the stress a divided marketplace causes.

“MRED has very cleverly solved how to pre-market your clients' properties with the creation of the Private Listing Network, which is only available to MLS subscribers. It doesn't matter whether it is new construction 10 months out, or a home that needs two weeks before it is ready to show. The limited data required for a listing on the network empowers all brokers with enough knowledge of the property address, price range, contact broker information and cooperating commission, to inform your buyers. We all turn to the MLS as the major source when looking for comps. Listings that may have appeared and sold through off-MLS sites only hurt the accuracy of our major data source. I think the creation of this PLN can only continue to improve MLS accuracy and completeness and is thus a benefit to us all.”

*-Michael Emery, Broker/Partner, Urban Real Estate, Chicago*

Although MRED puts no restrictions regarding the amount of time a listing may be in the PLN, these listings do expire on the entered expiration date.

# MRED Training and Marketing Materials



Education was a critical part of the implementation process of MRED's Private Listing Network. Proper explanation of the PLN and expectations for its use were a vital part of ensuring real estate professionals completely understood the rationale behind the rules. MRED accomplished this with detailed messaging through all its available electronic communication channels and an introductory grace period for PLN-related compliance issues that would have otherwise resulted in fines.

**Below are several of the educational resources we provided to real estate professionals regarding the PLN:**

Access MRED's FAQ's about their Private Listing Network [here](#) <sup>17</sup>

Informational videos were created describing the Private Listing Network to agents

MRED distributes slide decks monthly to managing brokers for use in their sales meetings. The following slides were sent out by MRED as part of these decks to promote subscriber knowledge of the PLN:

## Are you using the Private Listing Network?

**Take advantage of the PLN to pre-market "coming soon" listings**

- The Private Listing Network (PLN) puts your properties in front of 45,000 real estate professionals without accumulating market time
- Once you're ready to include the listings on the Standard Listing Network, create an SLN listing draft from the PLN

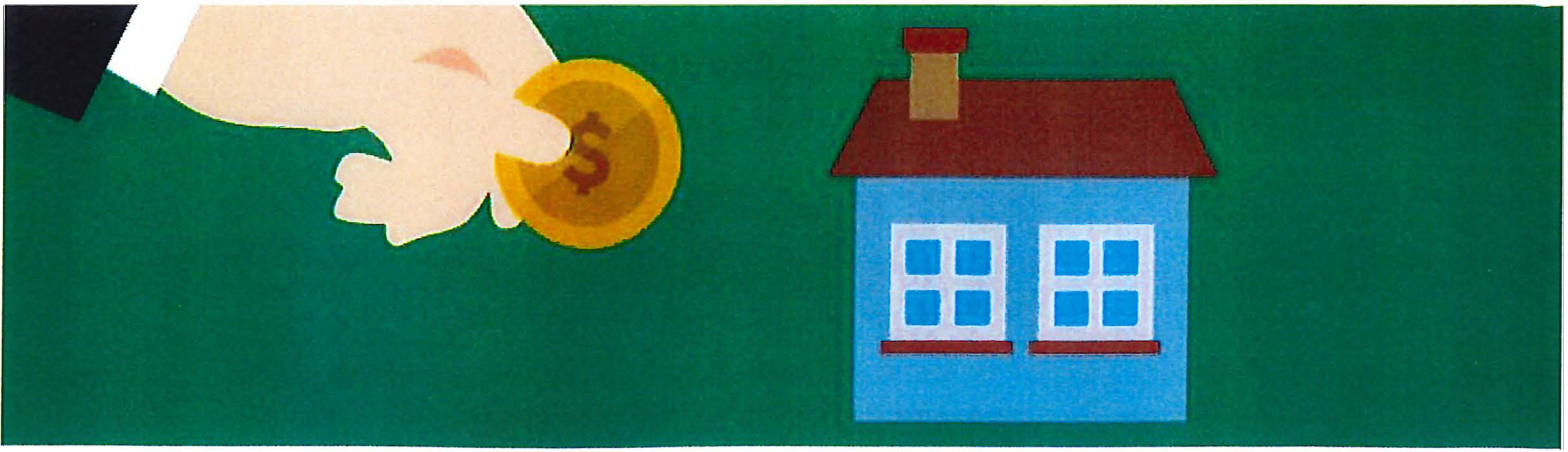
[Read the FAQs](#)  
[Learn more](#)



### **More benefits and details of the PLN:**

- No price necessary; feel out the market using a price range
- Only select fields required
- PLN listings do NOT appear in Standard Listing Network (SLN) search
- PLN listings are NOT sent to third-party portals or IDX/VOW distribution
- PLN listings are NOT included in emails to clients through connectMLS
- Attach broker-only comments listing (date available for showing, etc.)

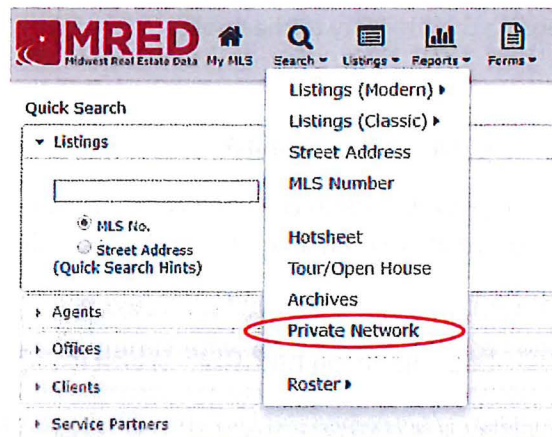
<sup>17</sup> [https://www.mredllc.com/comms/resources/PLN\\_FAQs.pdf](https://www.mredllc.com/comms/resources/PLN_FAQs.pdf)



## Is the seller already working with a REALTOR®?

This is especially important for expired and cancelled listings

- Don't forget to check the Private Listing Network (PLN)
- Find the PLN listings in the Search Tab  
MRED averages more than 3,000 PLN listings at any given time
- Modern Search allows for a single search of both the PLN and Standard Listing databases directly from the SmartBar



## Frequently Asked Questions

**Q.** Can I request to show PLN listings?

**A.**

**Not all PLN listings can be shown. To see if the listing you're interested in allows showings, locate the Showings field on the listing sheet. If they are allowed, you can view the showing instructions to determine your next steps to schedule a showing.**

|                        |   |
|------------------------|---|
| <b>Detached Single</b> |   |
| Address:               | <b>815 Greendale Ave, Wheaton, IL 60187</b> |
| Bedrooms:              | <b>3</b>                                    |
| Bathrooms (full/half): | <b>3 / 1</b>                                |
| Showings:              | <b>No</b>                                   |
| Showing Instructions:  |   |



## PRIVATE LISTINGS NETWORK FAQs

### **What is the PLN?**

MRED's Private Listing Network (PLN) is a database within connectMLS that's separate from the Standard Listing Network (SLN). You can place "minidrafts" of property information in the PLN, allowing you to enter selected listings in a way that restricts the information shared to just other brokers BEFORE exposing the property to the public.

### **What are the benefits?**

The PLN provides MRED customers a secure network in which to enter their "coming soon" listings with an opportunity to premarket them to peers in the spirit of cooperation and compensation.

### **Does this mean FSBOs and pocket listings are allowed in the MLS via the PLN?**

A valid listing agreement and an offer of compensation are still required to enter a listing into the PLN or SLN. If either of these requirements are not met, the listing CANNOT be entered into the MLS.

### **If I want to market the listing in the PLN, do I need my seller to sign anything?**

Yes. You should have a conversation with your seller about the differences between placing the listing in the PLN vs the SLN. It's also recommended that you have your seller sign an addendum form created by your Association or Brokerage.

### **Are there any new rules regarding the PLN or exempt listings in general?**

Yes. Any listing entered into connectMLS (whether in the PLN or SLN), must be entered within 48 hours of the list date or within 24 hours of advertising to the general public, whichever happens first. Public advertising includes mediums such as for sale signs, public websites, and print media. Failure to comply with this rule will result in an automatic fine of \$1,000.

Want to learn more about the rule changes?

[Watch the Video > http://bit.ly/MRED-PLN-Video](http://bit.ly/MRED-PLN-Video)

[Read the Updated Rules & Regulations > http://bit.ly/MRED-Rules-Regs](http://bit.ly/MRED-Rules-Regs)

## **When should I move the listing from the PLN to the SLN?**

When and if directed by the seller per your marketing agreement OR when a transaction closes where the procuring cause was produced from a listing found in the PLN.

## **If a listing from the PLN closes due to the procuring cause that it was found in the PLN, is there a fine if it's not reported closed in the SLN?**

Yes. Failure to report closed within 48 hours carries an automatic fine of \$250.

## **What are the difference between the PLN and the SLN?**

- There are a limited number of fields (both required and non-required) in the PLN
- Listings in the PLN do NOT appear in the search results in the SLN
- Listings in the PLN are not displayed publicly, i.e. are NOT included in IDX, VOW, or any feeds to third party aggregator websites, and cannot be emailed or included in prospect (auto-search) matches. MRED can send PLN listings to BPP/Homesnap Pro (MRED's mobile app) at the direction of the managing broker
- There is no time limit for a listing to be in the PLN and no market time accrues while in the PLN

## **Do I need a signed listing agreement to enter a listing in the PLN?**

Yes. You must have a signed listing agreement for any properties placed in the PLN, just as you are required to have one in order to place a listing in the SLN.

## **Do listings in the PLN have to offer cooperative compensation?**

Yes.

## **Why don't PLN properties appear on my VOW site?**

These listings can only be viewed by MRED customers within a secure database in connectMLS. There is no dissemination of private listings by MRED. They are not included in IDX or VOW feeds to third party aggregator websites or email and auto-search functions from connectMLS. MRED brokers, regardless of whether they have a VOW or IDX site, have access to connectMLS to search for or enter private listings.

## **Can I print a listing report from the PLN and give it to my client?**

No. The report is for brokers only and contains sensitive broker-only information. You may share the non-sensitive information of the private listing with your client, but there is only one report for private listings and it is an agent-only report.

## How long can a listing remain in the PLN?

There is no time limit, but the listing will expire on the entered expiration date. Once it expires in the PLN, it cannot be reactivated as active.

## Does market time accrue while in the PLN?

No. Market time will not accrue while in the PLN. Market time will also not be added for the period the property is in private status if transitioned to the SLN. Days on market calculations will start once the listing is activated in the SLN either as a NEW or CLSD listing.

## Will private listings that have been transitioned to the SLN as active or closed also remain in the PLN?

Yes. A listing entered into the PLN will always remain in the PLN. Below are the three search options for private listings; Private Active Listings, Private Expired Listings, and Previously Private Listings. PLN listings that have transitioned to the SLN can still be found in the PLN by searching "Previously Private Listings".

- A Private Active Listings**
- B Private Expired Listings**
- C Previously Private Listings**

## If a listing expires while in the PLN, can it be reactivated?

No. Once a listing expires in the PLN, there is no valid status transition for a listing out of the EXP status.

## If I save a private listing as a draft, will the draft appear in the PLN?

No. Listing drafts in the PLN behave the same as listing drafts in the SLN. A private listing draft will not display in the PLN until it is assigned a listing number. The listing number assigned will identify it while in the PLN AND if it is transitioned to the SLN (i.e. the same number that is assigned for the life of the listing).

## Can I get instantly notified when a new private listing has hit the MLS?

Yes! You can create an automated search that detects and notifies you of new listings and updates to listings in the PLN. However this does NOT allow you to email clients to view the listings in the client portal, as MRED prohibits private listings from being emailed to clients via prospecting.



|  | Traditional Listing   | Coming Soon  | Delayed Listing   | Withhold  |
|--|---|--|---|---|
| When is listing submitted to MLS?                  | Within 48 hours of signed Listing Agreement   | Within 48 hours of signed Listing Agreement  | On Go Active date   | Within 48 hours of signed Listing Agreement <sup>2</sup>  |
| When is public marketing allowed?                  | As soon as the listing is Active on MLS   | As soon as it is entered on MLS as Coming Soon (except for tours/open houses) <sup>1</sup>   | Not until Go Active date  | At the discretion of the listing agent and the seller   |
| When can a showing be scheduled?                   | As soon as the listing is Active on MLS   | As soon as it is entered on MLS as Coming Soon (but only for the Go Active date or later)  | Not until Go Active date  | Not through MLS   |
| When are showings allowed?                         | As soon as the listing is Active on MLS   | Not until Go Active date or later  | Not until Go Active date or later   | Not through MLS   |
| Can the Go Active date be adjusted?                | n/a   | Cannot be shortened; can be extended, but not to exceed 14 total days as a Coming Soon listing   | Yes- as many times as necessary up and until the listing is submitted to the MLS  | At seller's instruction, Go Active Date can be after 30 days (minimum) from Listing Agreement execution   |
| Days on Market (DOM) Calculation (aka Market Time) | As soon as the listing is Active on MLS   | Days on Market start on the Go Active Date   | Days on Market start on the Go Active Date  | Days on Market starts, upon executed agreement  |
| What paperwork is required?                        | Listing Agreement or Listing Agreement Compliance Certification must be loaded to Supplements as a Private Document | Listing Agreement or Listing Agreement Compliance Certification must be loaded to Supplements as a Private Document <b>and</b> Coming Soon Addendum loaded as Coming Soon Supplement | Listing Agreement or Listing Agreement Compliance Certification <b>and</b> Delayed Listing Form (if delayed information is not in Listing Agreement) must each be loaded to Supplements as a Private Document | Withhold from MLS form must be submitted to SmartMLS within 48 hours of listing agreement execution; Sellers Instruction to File Listing with SmartMLS is required if seller decides to submit listing to the MLS |
| Who should sign?                                   | <b>N/A</b><br>No additional form  | Listing Agent and Seller(s)/Lessor(s)  | Listing Agent and Seller(s)/Lessor(s)   | Listing Agent & Broker/Manager and Seller(s)/Lessor(s)  |

<sup>1</sup> For Coming Soon listings, all public marketing **with the exception of tours and/or open houses** is permitted as soon as the listing is entered on the MLS in the Coming Soon status. As is the case with showings, Tours and Open Houses cannot occur during the Coming Soon period- they can only occur once the listing is Active on the MLS.

<sup>2</sup> The listing must be entered into Matrix as a Withhold from MLS listing and the *Listing Agreement/Listing Agreement Compliance Certification* **and** the *Instruction to Withhold* form uploaded within 48 hours of the executed listing agreement. If the seller decides they want their withheld listing activated on the MLS (so all SmartMLS subscribers and their clients can see it), it has to be after a minimum of 30 days being withheld. Market Time will accrue during the time the listing was withheld.

## MLS Listing Exemption Authorization

This is an acknowledgement ("Acknowledgement") dated \_\_\_\_\_ regarding the listing of the property known as \_\_\_\_\_ ("Property"), hereinafter \_\_\_\_\_ is referred to as "Owner" and \_\_\_\_\_ is referred to as "Broker".

1. **MULTIPLE LISTING SERVICE:** Broker is a participant/customer to MRED's multiple listing service ("MLS"), the prevalent database of properties for sale or rent in the greater Chicagoland metropolitan area that is disseminated to and accessible by all other real estate agents who are participants/customers to the MLS. MRED's purpose is to support its nearly 45,000 real estate professionals in their cooperative efforts to bring together buyers and sellers, renters and lessors and assist in the real estate transaction process.
2. **MANDATORY SUBMISSION TO MLS:** The MLS requires brokers participating in the service to submit all exclusive right to sell, exclusive right to lease, and exclusive agency listings for real property to the MLS") **within 48 hours of the effective listing date or within 24 hours after the real estate broker advertises the real property to the general public through a website or utilizes any publicly accessible print advertisements, including for sale signs, whichever is earlier.** If Owner declines to permit the listing to be disseminated via the MLS, and the property will not be **advertised to the public through a website or utilizes any publicly accessible print advertisements, including for sale signs** a listing exemption form shall be signed by Owner indicating that Owner does not desire the listing to be immediately filed with the MLS and the listing exemption form shall be filed with the MLS upon request.
3. **EXPOSURE TO BUYERS AND RENTERS THROUGH MLS:** Listing property with the MLS exposes the Property to all real estate brokers and managing brokers who are participants/customers of the MLS or any reciprocating MLSs, and potential buyer and renter clients of those brokers and managing brokers. The MLS may further transmit the MLS database to internet sites or apps that post property listings online.
4. **BROKER DUTIES:** While a listing is accessible 24/7 to all MRED's MLS participants/customers, Owner's Broker continues to maintain the listing by arranging for showings of the Property according to the procedures he/she has explained to Owner. Whether or not a property is listed in the MLS, Broker will remain responsible for providing the minimum services required by law to Owner.
5. **REALTOR® CODE OF ETHICS:** As a member of the National Association of REALTORS® (NAR), all MRED participants/customers agree to abide by NAR's code of ethics and cooperate with all brokers in making your property available for showings to prospective buyers or renters. They also adhere to strict NAR guidelines for the presentation and negotiation of contracts, thus furthering the interest of both the client and the public.
6. **NO ADDITIONAL FEES:** There are no additional listing costs charged by MRED for the placement of your Property's listing into MRED's MLS database.
7. **IMPACT OF EXCLUSION OF PROPERTY FROM MLS:** If Property is excluded from the MLS, Owner understands and acknowledges that (a) real estate brokers and managing brokers from other real estate offices who have access to the MLS, and their buyer or renter clients, may not be aware that Owner's Property is offered for sale or lease; (b) information about Owner's Property will not be transmitted by MRED to various real estate internet sites used by the public to search for property listings; and (c) real estate brokers, managing brokers and members of the public may be unaware of the terms and conditions under which Owner is marketing the Property.
8. **FAIR HOUSING:** Owner's decision to exclude the Property from the MRED MLS database is based upon reasons other than a refusal or reluctance on Owner's part to show, list, negotiate or sell the Property to an individual on the basis of one's membership in a protected class, e.g.: race, color, religion, national origin, sex, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, familial status or any other class protected by Article 3 of the Illinois Human Rights Act. Owner acknowledges that they shall also be bound by the provisions of federal, state and local (city and/or county) human rights or fair housing laws (if any) and agree to comply with same.
9. **SELLER OPT-OUT:** Owner understands the implications of not submitting Property to MRED's MLS database and authorizes Broker as follows (Check only one):
  - A.  Do not submit Property to the MLS for a period of \_\_\_\_\_ calendar days from the commencement of the listing.
  - B.  Do not submit Property to the MLS until \_\_\_\_\_ (date).
  - C.  Do not submit Property to the MLS until additional service(s) (e.g. virtual tours, professional photography, painting, staging, etc.) has been completed, which must be completed by \_\_\_\_\_ (date). Service(s) to be completed: \_\_\_\_\_
  - D.  Do not submit Property to the MLS during the entire listing provided for in the Agreement.
  - E.  Do not submit Property to the MLS until given further written notice.

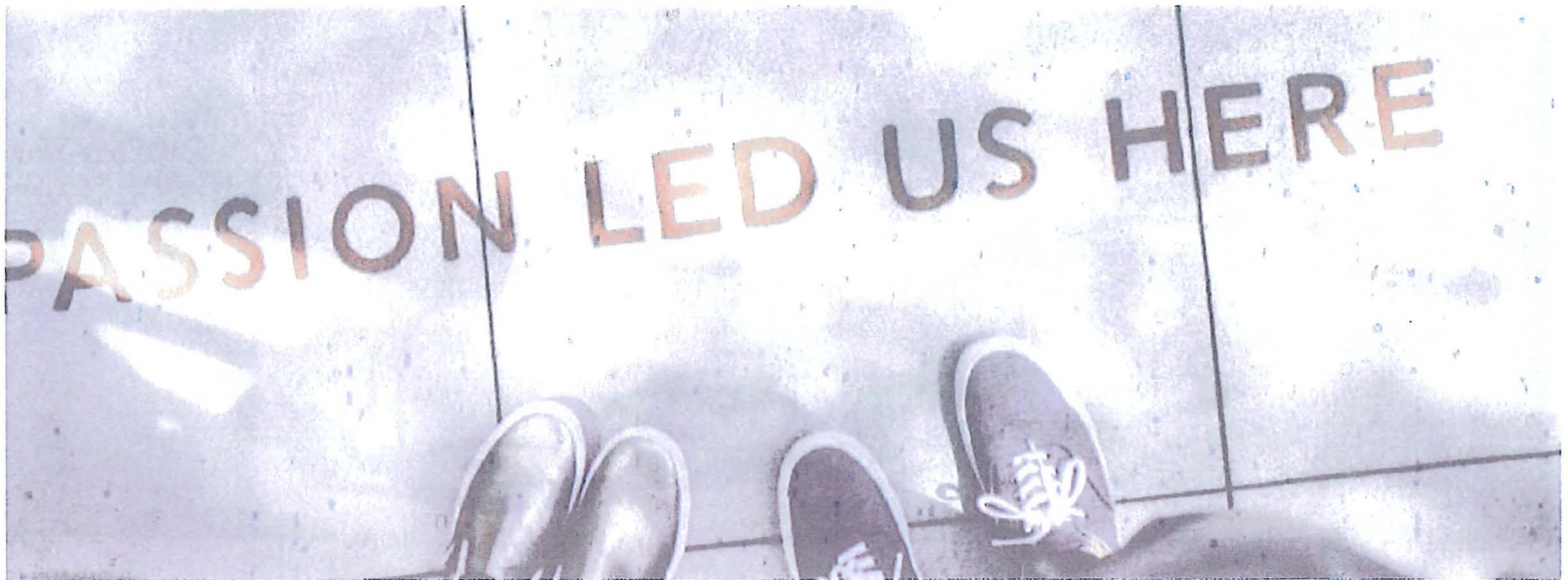
By signing below, Owner acknowledges that Owner has read, understands, accepts and has received a copy of this form.

Owner Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Owner Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Real Estate Broker (Firm) \_\_\_\_\_ Listing Agent ID # \_\_\_\_\_  
 By (Managing Broker) \_\_\_\_\_  
 Address \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Managing Broker Signature \_\_\_\_\_

# About MRED



Midwest Real Estate Data (MRED) is the real estate data aggregator and distributor providing the Chicagoland multiple listing service (MLS) to more than 45,000 brokers and appraisers and over 7,300 offices. MRED serves Chicago and the surrounding "collar" counties and provides property information encompassing northern Illinois, southern Wisconsin, and northwest Indiana. MRED delivers numerous products and services to its customers, including connectMLS, the top-rated MLS system in the country for 2 consecutive years, according to the WAV Group MLS Technology Survey. MRED was a finalist for the 2019 Inman Innovator award for Most Innovative MLS, Association, or Industry Organization. For 10 consecutive years, the MRED Help Desk has been identified as one of the best small-sized contact centers in North America, including a #1 ranking in 2019 from BenchmarkPortal. MRED is a proud member of MLS Grid and supports the Broker Public Portal. For more information, please visit [MREDLLC.com](http://MREDLLC.com).

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## Acknowledgements

MRED would like to thank the MLSs that contributed information regarding their off-MLS solutions: Austin Board of REALTORS®, Canopy MLS, First Multiple Listing Service, MetroList, NorthstarMLS, Northwest MLS, and SmartMLS. Additional thanks the National Association of REALTORS® for providing their policy language, the COVE Group for allowing the use of its survey, the Council of Multiple Listing Services (CMLS) for review, and Mainstreet Organization of REALTORS® for allowing the use of its PLN form.

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# Notes

