



NOTICE TO ALL MEMBER BROKERAGE OFFICES OF CREA

RE: PROTECTION OF MLS[®] AND REALTOR[®] TRADEMARKS

CREA's trademarks are being compromised as a result of unauthorized use by non-members who are not licensed to use or display these marks. This misuse represents a serious threat to the trademarks as it waters down their distinctiveness and weakens their ability to identify professional services rendered only by members of CREA.

This situation has become serious as a result of the increasing number of REALTOR[®] members who are entering into co-listing arrangements with non-member individuals and companies to offer access to a Board's MLS[®] System.

While it is acceptable for members of CREA to co-operate with non members in co-listing properties, many members and non-members seem to think that such co-operation includes the right of non-members to use and display CREA's trademarks. **This is not so.** It is therefore important that all members understand the limitations placed on non-members in these circumstances.

Therefore, all member brokers and salespersons should be aware of the following:

1. Only members of CREA are licensed to use and display CREA's trademarks. Subject to the exception described below, non-members have no right to use or display CREA's trademarks in their business and promotional materials, whether in print or electronic form.

CREA's trademarks include MLS[®], Multiple Listing Service[®] and associated design marks (collectively, the MLS[®] trademark), and REALTOR[®], REALTORS[®], and associated design marks (collectively, the REALTOR[®] trademark).

2. Members are responsible to CREA for the proper use of CREA's trademarks by non-members with whom they enter into contracts or other relationships relating to the sale of real estate.

Any member who enters into a relationship with a non-member – including non-member "FSBO" companies and consumers – is responsible for ensuring that the non-member is aware of the restrictions regarding the display of CREA's trademarks as identified in this Notice, and undertakes to be bound by those restrictions. In particular, the member must

do the following: enter into a written agreement with the non-member; provide a copy of this Notice to the non-member; ensure that the written agreement requires the non-member to comply with these restrictions; ensure that the written agreement gives the member the right to terminate the agreement if the non-member violates these restrictions; and the member must terminate the agreement in the event of unrectified breaches.

CREA will vigorously defend its trademark rights against any unauthorized user in order to protect their validity for the benefit of all CREA members. **At the same time, CREA expects and requires its members to protect the trademarks, and will hold members accountable for unauthorized use by non-members.** In particular, CREA may file complaints with the member's Board under the REALTOR® Code, requesting the Board to initiate discipline proceedings against offending REALTOR® members who do not ensure that the non-member complies with these use restrictions or who do not terminate the contract with the non-member in the event of unrectified breaches. Sanctions may include the loss of the member's right to use any of CREA's trademarks.

3. Non-members may only refer to CREA's trademarks in their business or promotional materials, whether in print or electronic form, in the following context:

(a) for the purposes of disclosing to consumers, in a factual and accurate manner, that an arrangement exists between the non-member and a member of CREA, whereby the CREA member will place a listing on the MLS® System of a real estate Board to which the member belongs; and

(b) for the purpose of describing in the text of any materials, in a factual and accurate manner, and **NOT** in any heading, banner, slogan, phrase or trademark, the advantages of having a CREA member place a listing on the MLS® System of a real estate Board.

No other use or display of CREA's trademarks is permissible.

With respect to the notice, it must include the following:

- The name of the member brokerage (the MLS® and other marks must only be associated with an identified member);
- The fact that the listing will be placed on the Board's MLS® System by the Member (with no implication that the non-member somehow has this ability);
- The proper name of the relevant real estate Board.

An example of an acceptable notice is:

“X Company has entered into a contract with ABC Realty, a member of the Ottawa Real Estate Board. Through this arrangement, ABC Realty will place your listing on the MLS® System of the Ottawa Real Estate Board.”*

In addition, a prominent disclaimer must appear on each page where any of CREA’s trademarks appears, stating that the MLS® [and/or REALTOR®] are trademarks owned or controlled by The Canadian Real Estate Association and that the non-member is not a member of CREA and is not licensed to use these marks with any services. An example of an acceptable disclaimer is:

**MLS® [and REALTOR®] are trademarks owned or controlled by The Canadian Real Estate Association (CREA). X Company is not a member of CREA and is not licensed to use these marks with any services.*

4. The display of CREA’s trademarks by non-members must comply with all of CREA’s rules for the proper use and display of its trademarks. In particular, non-members must be advised of the following:

- The MLS® trademark refers to professional services to effect the purchase and sale of real estate that meet a defined standard of quality and are performed by members of CREA. It does **not** mean a “database of real estate listings”.
- As a trademark, MLS® is never to be used as a noun. So it is always wrong to refer to “the MLS®”. The co-operative listing systems operated by real estate boards are properly referred to as “MLS® Systems”. That is the only accurate method of describing those systems;
- The REALTOR® trademark refers to the real estate brokerage services provided by a member of CREA in good standing. The accepted generic term to describe an agent who is not a member of CREA is “real estate agent” or “real estate salesperson”.
- The ® symbol **must follow** every use of either MLS® or REALTOR®;

Non-members must also be advised that they may not:

- Display or use any of CREA’s design marks under any circumstances, even in the context of an allowable notice. Only the **word** marks may be used in that notice.
- Refer to listing a property on mls.ca or REALTOR.ca, or use any other terminology to suggest that there is some “national listing system”. There is no such thing. A property is listed only on a Board’s MLS® System, and that is the only proper reference.
- Make any reference that in any way implies membership in CREA or implies that the non-member itself offers or can offer direct access to a Board’s MLS® System.

- Use any of CREA’s trademarks in any manner other than in the notice described above. In particular, the marks may not be incorporated into slogans, phrases or headings (e.g. “Sell privately on MLS®”, “Join our MLS® Program”, “Your MLS® Connection” and “Flat Fee MLS® Listings” are prohibited), may not be used on lawn signs (e.g. “MLS® #123456 is prohibited), and may not be used as a generic term in any marketing materials (e.g. “Property listed on MLS®” and “the MLS® is a database” are prohibited).

With respect to their own use of CREA’s trademarks, members are reminded of the 14 basic rules for use that are contained in CREA’s Trademark Manual.

5. Non-member companies owned by members are subject to the same rules as non-members.

Some members have set up companies that are not members of CREA. These companies may operate primarily as technology providers or may offer FSBO services, or perform some other related function. The fact that these entities are owned by persons who are members of CREA is irrelevant for the purposes of using CREA’s trademarks. **These entities are not members of CREA and are consequently subject to the trademark rules for non-members, as set out above.** The fact that these companies may be advertised in association with CREA members does not change this position.

6. Sellers may not use CREA’s trademarks except in the following context.

Sellers who have reserved the right to sell their properties themselves, while having it listed on a Board’s MLS® System, cannot advertise using CREA’s trademarks. In particular, associating CREA’s MLS® trademark with what is essentially a “private sale” is entirely inconsistent with the defined standard associated with this trademark, namely professional services provided by members of CREA. However, in marketing materials (excluding lawn signs), sellers may use the same notice as a non-member may use, but modified as follows:

“ABC Realty has placed a listing for this property on the MLS® System of the DEF Real Estate Board, under no. 123456.”