



**2014**

*Sheboygan County Board of REALTORS®*



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**Special Interest**

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## **BOARD OF DIRECTORS**

**PRESIDENT**  
Matt Kapellen

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NMLS #802725

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## **DIRECTORS**

Lynn Schwensow  
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Sue Toerpe  
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(Affiliate director)

Lisa Darr  
(Past President)

**EXECUTIVE OFFICER**  
Jackie Kaiser

**ADMINISTRATIVE ASSISTANT**

## **President's Message**



There are no jokes this Aprils Fools Day when looking at the activity in MLS and experiencing all the hustle and bustle in the offices... Life of a REALTOR is FUN again! This can be added stress for some and a relief for others but I'm sure we'll all welcome the activity with open arms! An outstanding 1st quarter, along with a thriving outlook for the balance of the year, elevates the excitement, adds laughter, and most importantly, creates a fun environment back in our offices. Just in time for SPRING!

And you can start to feel it already, spring is certainly in the air! The refreshing sound of Uecker on the radio, cold hands from holding your beer (instead of from Mother Nature), and additional daylight means summer is just around the corner. As the summer rush begins, remember your time... Not only effective time management in real estate but also time for yourself and for your families. It's much deserved!

GEEK Alert! The board is going techy... We've ditched the old projector and overhead screen and have purchased a flat screen television. We're working closely with the WRA Educational Department to bring classes including ethics training, new member orientation, and professional standards training to the board office! This will allow us to better help you manage your time and your education, as well as becoming a centralized hub for other boards.

The open house at the new board office will be April 23rd from 11-3. See you then!

"Always Be Positive When Representing Our Industry."

**Matt Kapellen**

## **New Address and Phone numbers**

**Effective Now**  
639 Walton Drive  
Plymouth, WI 53073

920-892-7908 or 920-892-4300  
920-892-2182 (FAX)

## **Members on the Move**

Daniel Menzer joined Core One Realty  
John Nelson joined Pleasant View Realty  
Catherine Shnur & Future Real Estate joined the Board  
Deborah Kidder joined Re/Max Realty Plus

## **Calendar of Events**

April 7 72 hr. Prelicensing Class  
April 16 BOD Meeting  
April 16 MLS Meeting  
April 18 Board Office Closed  
April 20 Easter  
April 22 Earth Day  
April 23 Board Office Open House  
April 25 Arbor Day

## **Put These Dates on Your Calendar**

**Board Office Open House April 23<sup>rd</sup> 11-3pm**  
**Golf Outing and Awards Dinner September 17<sup>th</sup> at T&C**  
**Christmas Open House December 9<sup>th</sup> 11-3pm**

## ***METRO NEWS***

**Be sure to keep up to date with the Flex system:  
(Do we have you right email? You should receive the updates and tips each month)**

For flexMLS Quick Tips

<http://www.metromls.com/node/18>

For MLS Support

[support@metromls.com](mailto:support@metromls.com)

For FYI issues:

<http://www.metromls.com/node/283>

For training class schedule

<http://mlswis.com/calendar>

**SHEBOYGAN  
COUNTY BOARD OF  
REALTORS OPEN  
HOUSE**



**APRIL 23RD  
11:00-3:00PM**

**COME FOR LUNCH AND  
VISIT  
OUR NEW HOME**



## MLS REMINDERS

# Law & Policy: Professionalism and pocket listings

By [Lesley M. Walker](#)  
March 5, 2014

By now pocket listings are a concept most real estate professionals are familiar with, and in some circles they have become something of a dirty word. Lower inventory has created a surge in pocket listings, especially in markets such as Northern California, where as much as 30 percent of all listings are believed to be pocket listings. However, markets across the United States are dealing with this issue more often lately as real estate recovers and demand outpaces supply. Pocket listings can be legal, but agents must proceed cautiously and consider the related risk management concerns they pose.

A pocket listing, off-MLS, or “office exclusive” listing as it is sometimes called, generally refers to a listing in which an agent has a listing agreement and the seller does not authorize the placement of the listing on the MLS. Instead, the agent markets the property through informal networks or new online platforms. MLS rules commonly require agents to place listings on the MLS within two days of receiving a signed agreement. Failure to do so violates MLS rules, garnering the agent significant penalty and fines. Of course, sellers can always elect not to have their property included in the MLS. In these instances, agents must have the seller sign an MLS opt-out form evidencing the seller’s direction not to have the property placed on the MLS.

## Suggesting a pocket listing

The REALTOR® Code of Ethics’ Article 1 requires REALTORS® “to promote and protect the interests of the client.” REALTORS® must always keep this in mind when recommending a pocket listing to a client. Even beyond the Code of Ethics, state law generally dictates that real estate agents owe a fiduciary duty to their clients, meaning real estate professionals must place their clients’ interests above their own and act in the best interests of their clients at all times.

Legal risk concerning pocket listings arises when agents or brokers keep listings off the MLS for reasons that are not in the best interest of the client. For example, unlike MLS listings, pocket listings are more likely to result in the agent representing the seller and the buyer, and the outcome would be a higher commission for the agent. This in itself is not illegal or unethical, but if the prospect of a double commission is the reason an agent suggests a pocket listing to the client, then this could violate the Code of Ethics, MLS rules, and laws in most states. In another example, assume brokerages in a high-end market have numerous pocket listings, which creates an aura of exclusivity for their business and attracts high-end clients. This also is not illegal or unethical by itself. Yet if the listings are kept off the MLS in order to boost the brokerage’s reputation, not to benefit the seller-clients, the result can be a violation. Therefore, prior to recommending and entering into a pocket listing, real estate agents must always ensure that they are doing so because of the anticipated benefits for the seller and not because of any benefit the agent or brokerage might receive.

It cannot be overlooked that Article 3’s duty to “cooperate with other brokers except when cooperation is not in the client’s best interest” is rooted in the premise that broad exposure and cooperative marketing often produces the best results for sellers.

When an agent recommends a pocket listing to a client, it is crucial that he or she thoroughly discuss with the seller the pros and cons of listing a property through the MLS. The agent should go one step further and be sure that the seller understands the benefits being waived by not including the property on the MLS. In general, the MLS offers sellers the greatest exposure of their property, allowing it to be actively marketed to every real estate agent belonging to that MLS. In addition, by listing on the MLS, the property may be downloaded to and displayed on third-party advertising sites used by the general public. Withholding a property from listing on the MLS significantly diminishes these marketing opportunities, which may result in reaching fewer potential buyers and a longer time from listing to selling the property, and, perhaps at the core of most sellers’ minds, it may not yield the highest price for the property.

Yet, there are situations where pocket listings may be appropriate. One example is a seller with privacy concerns. High-profile individuals or celebrities may not want the general public to know they are selling their property. Another situation is when a seller may not want a lot of people coming through the property. In these scenarios, a pocket listing may make sense to protect and maintain the client’s privacy.

## Professionalism and Pinterest

***What are the rules for social media websites such as Pinterest, the virtual “pin board” website? A Pinterest user can pin properties listed for sale by independent parties or by other brokers — and the source of the listing is visible on the “pinned” item. The user can add a description stating that parties can contact the Pinterest user for assistance with the property or to answer questions.***

Just because technology allows someone to pin and/or share a property photo on Pinterest or another social media site, it does not mean that the broker or agent has the authority to do so. Before the Internet, the WRA Legal Hotline received questions about putting up photographs of another broker’s listings on the office picture board. The Hotline also received inquiries related to including other companies’ listings when compiling a list of locally available properties to mail out. Today, Pinterest reflects the evolution of that picture board and mailings, but the analysis is the same: before a REALTOR® pins on Pinterest, he or she should ask, “do I have actual consent or authority?”

There are several items to be considered before an agent or broker proceeds to “pin”:

- The listing broker’s exclusive right to sell listing.
- The seller’s consent.
- Copyright law, for both the photo and any MLS content.

Can the REALTOR® pin a picture of another broker’s listing on her own board? Maybe ... with the proper consent of the seller, the listing broker and the photographer.

For a national perspective on advertising real estate on Pinterest, see the “A Place for Real Estate on Pinterest?” article in *REALTOR® Magazine* at [realtormag.realtor.org/daily-news/2013/11/26/place-for-real-estate-pinterest](http://realtormag.realtor.org/daily-news/2013/11/26/place-for-real-estate-pinterest).

Seller and listing broker consent

In order for any third party to advertise another broker’s listing, the consent of the seller and the listing broker is necessary. Regardless of whether the advertising medium is a newspaper, radio or the Internet, consent is required. The advertising rules in Wis. Admin. Code § REEB 24.04 require the consent of the seller to engage in advertising. In addition, the listing broker’s consent is required because the exclusive right to sell nature of the listing contract grants the listing broker — not cooperating brokers — the right to advertise.

### **But it is in the MLS!**

***Does the fact that the property photos are in the MLS give consent?***

No. To assure compliance with MLS rules, consider whether the information is being used in a “pull” or “push” scenario. “Pull” is when a prospective purchaser has expressed interest in a specific property or type of property; the broker may pull out MLS photos and information in response to the purchaser’s request. “Push” is when the broker is selecting information about properties for a general promotion or marketing piece. The broker should not arbitrarily push MLS photos or information on to a bulletin board or Pinterest board because this does not comply with the reproduction restrictions in the MLS rules.

When a broker submits listing information to the MLS, it is for the clearly defined and limited purpose of disseminating that information to other MLS participants. The MLS allows participants, upon the request of a potential purchaser or tenant, to provide information obtained from the MLS.

♪♪ Happy Birthday to you ♪♪

- April 1 Kevin Sampson, Daniel Shaske
- April 2 James Schermetzler
- April 3 Jerome Fuhrmann, Peter Hammes,  
Amy Buechel, Sueanne Toerpe
- April 4 Scott Stoelb
- April 5 Robert Werner
- April 6 Chesley Erwin, Kristine Hartmann
- April 9 Ann Hickmann
- April 13 Susan Lessard, Wayne Boettcher
- April 14 Kay Ott, Michelle Epping,  
George Young, Ameer Thompson
- April 16 Tracy Plier, James Dhein
- April 17 Christopher Rautmann
- April 23 Jeffrey Smyth
- April 28 Dennis Weinhold, Steve Hamer,  
James Glavin

**IMPORTANT NUMBERS**



- Board Office.....892-7908
- Board Fax.....892-2182
- Email.....Jackie@RealtorsBoard.com  
Wanda@RealtorsBoard.com
- Website.....realtorsboard.com
  
- WRA (www.wra.org).....(608) 241-2047
- Members only.....(800) 279-197
- Legal Hotline.....(608) 242-2296
- Members only.....(800) 799-4468
  
- MetroMLS.....(414) 779-5400
- Members only.....(800) 229-9211

Here are the phone numbers to contact your board of directors  
when you have questions or concerns:

Matt Kapellen 920-207-5450; Derrick Hermann (NMLS#802725) 920-528-8385;  
Barb Lukens 918-1412; Jim Schermetzler 920-457-1075;  
Sue Toerpe 920-254-7766; Connie Conrad 892-7711; Lynn Schwensow 920-946-4054  
Peter Haase 920-207-4745; Kristine Hartmann 920-980-5542; Jeanne Koehn 920-629-0866;  
Pam Holzhaeuser (NMLS#470139) 920-459-5834; Lisa Darr 920-912-2150



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