

Guide to Understanding the 2022 MLS Rules & Regulations Changes

HiCentral MLS

In July of this year, the HiCentral MLS Board of Directors convened a Task Force made up of well-respected, experienced HiCentral MLS Participants. Feedback was then solicited from membership on potential Rules and Regulations changes for the 2023-24 cycle. Over the past few months, careful consideration went into each of these recommended changes. Throughout this process, best practices and recommendations from NAR and other MLS boards were consulted, examined, and thoroughly discussed and reviewed.

After careful consideration, the following changes were proposed by the Task Force and approved by the HiCentral MLS Board of Directors. They cover the following areas:

- Listing Status Types
- Revisions regarding “Media in the MLS”
- New fields
- Revised Exempted Listing process; and
- Administrative rule changes

1. Listing Status Type Updates¹

With the goal of aligning with the Real Estate Standards Organization (RESO) standards, the following changes have been made:

Current Status	Definition	New Status
Active	listing is currently listed for sale.	<i>No change</i>
In Escrow – Showing	listing is under contract and is available for showing.	Active Under Contract
In Escrow – Not Showing	listing is under contract and NOT available for showing.	Pending
Expired	listing has reached the listing period end date. The listing is off market.	<i>No change</i>
Temporarily Withdrawn	listing is temporarily off market as authorized by seller. Seller is still under contract with listing Brokerage Firm.	Hold

¹ Modify status names in **Section 1.4 (Change of Price or Status of Listings)** and **Section 1.6 (Types of Status of Listings)** of the MLS Rules and Regulations

Withdrawn	listing is withdrawn as authorized by seller prior to original end date. Seller is no longer under contract with listing Brokerage Firm.	Cancelled
Sold	sale of a listing has closed	No change

Rationale:

The objective of the Real Estate Standards Organization (RESO) is to create and promote the adoption and utilization of standards that drive efficiency throughout the real estate industry. Part of this is accomplished through the adoption of the RESO Data Dictionary. This solution is designed to be the real estate industry’s universal language for data, which suggests a template that allows for easier integration with other tools. Moving to RESO Standards will make it easier for third-party companies that provide services to Brokers to adopt MLS data.

The above listing status changes are also designed to bring clarity to the difference between Temporarily Withdrawn and Withdrawn while aligning HiCentral MLS data more with RESO Standards.

2. Revisions regarding “Media in the MLS”²

i. Rule update to 1.19.4(a):

The depiction of people in any media is strictly prohibited.

Rationale:

REALTORS® have begun to frequently include depictions of people in listing media. This has become problematic for two reasons:

- People appearing in photos create several issues related to permission and privacy*
- The previous rule allowing people in media included the term “identifiable” and confusion arose around what is considered identifiable.*

² **Section 1.19.4 (MEDIA IN THE MLS):** Media is defined as any depiction or expression of works including, but not limited to, photographs, images, drawings, renderings, audio, video, and virtual tours.

As a self-policing organization that aims to bring clarity to all parties involved, removing any depiction of people in media is the simplest solution that avoids personal opinions of the term. An additional goal of the proposed change is to avoid potential fair housing complaints or issues of unintended bias.

ii. **Rule update to Section 1.19.4(b)**³

All listings must include at least one photo – the primary photo. This photo must be of the subject property, and preferably the exterior, front elevation of the property or the building. It is recommended that all listings include at least 5 photos. When multiple photos are included, the primary photo may be some other photo of the property.

Rationale:

The goal of the Board is to provide accurate and complete data for its Subscribers and Participants. This includes adding quality photos that help to depict the value of a home – thus, the recommendation for multiple photos.

iii. **Rule update to Section 1.19.4(d)**

For the persistent and mutual benefit of subscribers to the MLS, photos submitted to the MLS shall not be deleted in preparation for closing⁴. All photos submitted to the MLS shall be retained by the MLS.

Note: When a listing has been sold, the MLS will only provide, and an IDX website will only display, the primary photo of the listing⁵.

Rationale:

Listing agents deleting photos immediately before the sale has become an area of concern. This practice leads to less information being available to other users of the MLS for comps and research after the sale, which lessens the benefit of the MLS to all.

³ Please note – Five photos are a recommendation and NOT a requirement.

⁴ Careful consideration went into the best phrasing around removing photos from the MLS that allows for instances where agents need to replace photos. The term “in preparation for closing” allows for this practice and the intent is to stop the practice of deleting photos from the MLS.

⁵ Adding this note to IDX rules will support the buyer’s desire for privacy once a listing has sold. This will hopefully eliminate requests for REALTORS® to remove photos from the MLS and allow Subscribers to the MLS access to complete data. This will reinforce the value of the REALTOR® as the industry expert and maintain the value of the MLS.

There is a difference between what is available to the public via the internet (IDX feeds) and what is visible in the MLS. To address potential privacy concerns, once a property has been sold, the MLS will distribute only the primary (first) photo of the property to external IDX websites. From that point, only MLS subscribers/participants will have access to the complete set of photos associated with the listing.

3. Coming Soon Status Reset⁶

With the understanding that a property can change significantly over an extended period, the following change has been made to **Section 1.2.3(g)**:

Old Rule	New Rule
<p>Coming Soon Listing status can only occur once per property per listing broker, regardless of the actual number of days under such status. For example, if the Coming Soon Listing status lasted for fifteen (15) days and then the listing was moved to active status, which eventually expired or was withdrawn, then the Coming Soon Listing status would no longer be available for the subject property with the same listing broker.</p>	<p>Coming Soon Listing status can only occur once per property per listing broker within any 365-day period, regardless of the actual number of days under such status. For example, if the Coming Soon Listing status lasted for fifteen (15) days and then the listing was moved to active status, which eventually expired or was cancelled, then the Coming Soon Listing status would no longer be available for the subject property with the same listing broker.</p>

Rationale:

Since adopting the Coming Soon status into MLS Rules & Regulations, a need for this status to reset for listings that have been off market for 365 days or more has been identified. The Board recognized that after an extended duration, a property can change significantly due to remodeling, painting, etc. As a result, allowing this reset will benefit the REALTOR® and their client.

⁶ Changes to be reflected in **Section 1.2.3(g)** and **Coming Soon Policy document**

The remaining sections include MLS system and process modifications and do not involve rule changes.

4. Enhanced Photos Watermark⁷

To ensure the public is aware a photo has been altered from its original form, the following change has been made to the enhanced photo disclosure process:

New Process:

When an enhanced or virtually staged photo is uploaded, each photo will have "Enhanced Photo" watermarked onto the photo. To accomplish this, the listing agent must use the word "enhanced" in the description field of each enhanced or virtually staged photo's description field. The MLS will systematically add the watermark.

This will add a watermark to all "Enhanced" photos as described in **Section 1.19.5⁸**. The watermark will read, "Enhanced Photo".

Rationale:

Some websites do not display photo comments, making the use of a watermark an important factor in transparency to the public. The use of varied watermarks from photography vendors also presents a challenge. The intent of creating a universal HiCentral MLS watermark for enhanced or virtually staged photos is to make it abundantly clear that a photo has been altered from its original form while maintaining a professional standard.

Complaints of enhanced or virtually staged photos existing in the MLS without any indication that they have been enhanced have risen in recent years. Adding this universal "Enhanced Photo" watermark will clearly indicate to all parties across any site that the photo has been modified from its original form. This is meant to provide transparency to the public and to help protect the REALTOR® from allegations of "false advertising" and minimize potential liability.

⁷ It is important to note, that no rule change was made to **Section 1.19.5** and REALTORS® must disclose an enhanced photo in the same three sections as before

⁸ Disclosure of enhanced photos is required by **1)** adding the word "Enhanced" in the photo description entry field, **2)** checking the "Enhanced Photo" field, and **3)** Included in the public remarks must be the words "One or more photos have been enhanced"

5. ADU (Accessory Dwelling Unit)/Ohana Dwelling Information

Understanding there is value in setting up a system that will facilitate the accurate recordation of homes with legal secondary dwellings, a new section will be added to Matrix:

New Process:

The **Secondary Dwelling** section will be added to the Additional Information tab. This new section will include the following optional fields:

- **Secondary Dwelling** – with choices of None, ADU, or Ohana Dwelling
- **Permit #** - Required only when ADU is selected⁹
- **Permit Completion Date** - Required only when ADU is selected

Rationale:

Secondary dwellings on a property are becoming more popular, and significantly change the value of a home. Further, it would be useful for REALTORS® to easily search, filter, or sort listings for secondary dwellings.

The Department of Planning and Permitting provides a website for agents to search for building permits issued after January 1972 ([Honolulu Internet Permit System - Building Permit Search](#)). Information for permits issued prior to this date can be obtained by visiting their Data Access and Imaging Branch on the first floor of the Fasi Municipal Building (FMB).

To protect the value of the REALTOR®, the Board believes this solution is the next step toward identifying legal units. The intent of requiring a permit number will serve as a signifier for an agent to verify they are claiming a legal unit as opposed to highlighting the possibility of a unit on the property.

⁹ Because some Ohana Dwelling permits were likely issued prior to January 1972, it is more difficult to verify this information. Making these fields optional for Ohana Dwellings allows agents to add information if they have it but does not make it a requirement. This allows flexibility for the listing agent and prevents them from having to delay listing the property.

6. Revised Exempted Listing Process

Part of the role of the MLS is to help REALTORS® in their business by providing accurate and complete data. To accomplish this, the exempted listing process was established. It has become increasingly clear that the process needs to be streamlined.

As a result, there will be a change to the current procedure to make the exempted listing input and tracking process easier and less cumbersome by allowing agents to directly input exempted listings into the MLS.

Original Process¹⁰

The listing agent must submit all required documents to the MLS within four calendar days after the listing agreement is fully executed and again after escrow closing. The listing is entered into the MLS by MLS staff after escrow closes.

New Process:

The MLS will create a new **Exempted Listing ("office exclusive")** section to allow listing agents to indicate a listing is exempted from display in the MLS for cooperation and compensation at the request of the seller.

To provide additional functionality, the MLS will create listing visibility options for Exempted Listings¹¹.

- **No Visibility** - visibility in the MLS is restricted to the Listing Agent, Broker, and MLS Assistant. The listing will not be syndicated to external sites.
- **Brokerage Only** - visibility in the MLS is restricted to MLS subscribers/participants under the same Principal Broker. The listing will not be syndicated to external sites.
- **No Longer Exempted** - Visibility for an exempted listing is returned to that of a normal listing. Syndication is possible by flagging "Yes" in the Show Internet field.

¹⁰ This process is independent of reporting sales for statistical purposes as a Buyer's agent. This is solely to be used for listing agents who have clients that do not want their property to be marketed to the public.

¹¹ Various use cases for exempted listings were identified and boiled down to the mentioned scenarios. The listing visibility of a home classified as an exempted listing will only be visible to the indicated parties. However, if the listing agent markets the property to those outside of the defined group, they are required to follow the requirements of Clear Cooperation.

Additional Disclosures for Exempted Listings

- Please ensure that you have written authorization from the seller to exclude this listing from MLS distribution.
- Listing will no longer be exempted when the status is changed to "Sold," thereby making the data visible to MLS Participants/Subscribers - i.e., the listing will appear in the MLS like any other "Sold" listing.
- Days on Market (DOM) does not reset by choosing "No Longer Exempted"
- Once "No Longer Exempted" is chosen, the listing may not be changed back to "Exempted" status.

Note: A new tab will be created in the listing input process called "Listing Visibility." This new tab will contain the new exempted listing fields and the existing internet syndication fields.

Rationale:

This revised process will allow the REALTOR® to input their exempted listing into the MLS and eliminate the need to submit paperwork for the listing. It will adhere to all the rules of a normal listing but limit the visibility of this listing until sold.

7. DOM (Days on Market) Calculation

The intent of the DOM calculation is to accurately represent the total number of days a property has been offered for sale by an individual brokerage over a prescribed period.

New Process:

DOM will only reset if the property:

- a) has been off-market 30 days¹², or
- b) listed with a different Brokerage¹³, or
- c) sold

¹² A driving motivator to refresh a listing is for the property to show up in the MLS and other marketing materials as a "new" listing. The Board believes requiring the property to be off market for 30 days is enough of a deterrent to prevent this behavior.

¹³ In an effort to balance transparency to the public and fairness to REALTORS® and their clients, the Board believes allowing a new Brokerage the opportunity to market the property as a new listing satisfies this need.

To better understand the calculation of DOM for a listing, please refer to the following examples:

Scenario 1 – Under 30 Days Off Market

Listing 1 had a DOM of 180 days before it Expired. The same property was re-listed 15 days later as Listing 2. Based on the 30-day rule, the DOM for Listing 2 would be 180 days, the day it comes back on the market as Active.

Scenario 2 - Under 30 Days Off Market and a New Listing Brokerage

Listing 1 had a DOM of 32 days before it was Withdrawn (*Cancelled*). The same property was re-listed by a new brokerage 15 days later as Listing 2. DOM for Listing 2 would be 0 days.

Scenario 3 - Over 30 Days Off Market

Listing 1 had a DOM of 80 days before it Expired. The same property was re-listed by the same brokerage 90 days later as Listing 2. Based on the 30-day rule, the DOM for Listing 2 would be 0 days.

Scenario 4 - Sold

Listing 1 had a DOM of 30 days before it was Sold. The same property was re-listed 20 days later as Listing 2. Based on the Sold rule, the DOM would be 0 days.

Rationale:

Transparency to the consumer has become increasingly important, and REALTORS® are the trusted source for real estate information. To further promote these ideals, there will be a change to the DOM calculation. The goal of this change is to provide transparency for the public and accurate data for HiCentral MLS Participants and Subscribers.

8. CDOM (Cumulative Days on Market) Calculation

The intent of the Cumulative Days on Market (CDOM) calculation is to accurately represent the total number of days a property has been marketed by a seller over a set period.

New Process:

CDOM will only reset if the property has been:

- a) off-market for 365 days, or
- b) sold

There will be a policy change that requires the display of CDOM when DOM is displayed – i.e., if you operate an IDX or VOW website where you display DOM, you must also display CDOM to provide the most complete and accurate representation of the property's days on market.

Rationale:

This is meant to give the REALTOR® and the public a more accurate picture of the total amount of time a property has taken to sell while on the market. The goal of this change is to provide transparency for the public and accurate data for HiCentral MLS Participants and Subscribers.

9. Replace “Master” with “Primary” Bedroom/Bathroom

The use of the term “master” to describe the primary bedroom or bathroom has raised concerns regarding how these terms might be perceived by other agents and consumers. Understanding some may be offended by the use of “master” to describe a room, the Board recommends replacing the term “master” with “primary.”