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PRDS Introduces New Advisory and Agreement to Exclude Listings from the MLS

By David Hamerslough

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PRDS has created a new seller advisory and agreement to exclude a listing from the MLS ("Advisory"). The new Advisory replaces the old document, which was entitled "PRDS Seller Instructions to Exclude Listing from the Multiple Listing Service."

The new Advisory is no longer an addendum to the listing agreement. It is now a stand-alone advisory and agreement. The top part of the old form, which referenced the purchase contract, has been eliminated. After the title, there is a simple line where the property address is to be inserted.

The new form contains several significant changes. First, Paragraph 2 now includes a warning informing the seller that, among other things, the only way to make sure that a seller is able to maximize the sale price is to expose the property to the market by including it on the MLS.

Second, the form still explains the need for mandatory submission to the MLS but adds language advising sellers that they must expressly agree in writing to waive their right to have a property placed on the MLS when they do not want their broker to utilize this major marketing tool.

Third, what was characterized in the old form as an authorization to exclude the property from the MLS is now re-couched as an agreement by the seller to do so. The language advising sellers of the specific consequences of doing so has not been altered, but sellers now will be stating that they understand and acknowledge that excluding a property from the MLS has the specified negative effects.

Fourth, the Advisory provides space for sellers to affirmatively state why they want to keep their property off the MLS.

Fifth, sellers are now required to acknowledge and agree that they are assuming all the risks associated with their decision to exclude a property from the MLS and confirm that they will hold the broker harmless for any and all liability arising from that decision.

Sixth, the Advisory must now be signed by the broker or manager rather than the sales associate. PRDS voted for this change, which is in line with the policy of MLS Listings, Inc., which no longer accepts exclusions without the signature of a broker or manager.

The new Advisory is the product of a collaborative effort by the PRDS Board of Directors and the PRDS Forms Committee with the input of managers of several offices associated with SILVAR. The hope is that this form will inform sellers of the risks associated with excluding their property from the MLS, confirm their agreement to run those risks if they make that choice, and provide the broker with a document reflecting these understandings and decisions in the event a seller ultimately regrets that decision.

The new Advisory should be available in May 2013.



Laurie and I had two very challenging real estate rights issues that we were advised were going to be difficult to prevail on. The RHRC team engaged with us and helped us understand our rights and prevailing position. RHRC were thoughtful advocates for us from the beginning to conclusion of our cases. We feel fortunate to know we will always be able to call on the firm in the future and that they are our legal counsel.

Albert "Rocky" and Laurie Pimental, President of Global Markets and Customers, Seagate Technology

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