

Property Images

If a real estate licensee takes photos of a property being listed, may those photos be uploaded to the MLS?

Yes. MLS's generally require pictures of the property being listed. In the C.A.R. Residential Listing Agreement, Form RLA, paragraph 11A, the seller gives the listing broker the authority to take photos of the property and publish them on the MLS, broker's website and other media.

Does the policy above also apply to video, virtual tours and 3D tours?

Yes, the policy typically applies to all images. Many MLSs may limit the file size and provide restrictions on display, such as prohibiting branding on pictures and images.

What if a real estate licensee hires a third party to take photos or videos ("Images") of the listed property, may those Images be uploaded to the MLS or otherwise used in marketing the seller's property?

Yes, if the real estate licensee has obtained permission from the third party. The person who takes the images will generally have copyright protection for that person's work. A real estate licensee should assure that the licensee has permission to use the work in conjunction with the sale and marketing of the property or has acquired the ownership or license to use the property Image.

How can a real estate licensee obtain the legal right to use the Images of a third party?

C.A.R. has a form for that, the Property Images Agreement, Form PIA.

What does Form PIA do?

Form PIA identifies:

- Image type (paragraph 1A)
- Term of the agreement (paragraph 1B) (Note: the agreement may apply to more than one property)
- The compensation to be paid (paragraph 2)
- If the third party gives the licensee an assignment of all rights (the default) to the Images or an exclusive license to use them (paragraph 4 A or B)
- Identification that the third party is an independent contractor and not an employee of the real estate licensee (paragraph 7)
- A statement that MLS rules apply if the Images are to be published in the MLS

The PIA form may be entered-into and signed by either the broker or a real estate salesperson.

May a real estate licensee supplement these Images in marketing material by other Images taken off the Internet?

Only if the licensee has obtained permission from the copyright owner of those images. Remember, everything on the Internet is not free.

If the property does not sell, and the licensee changes offices, may the licensee continue to use the Images?

It depends on the agreement between the licensee and that person's broker. For example, paragraph 5A of the C.A.R. Independent Contractor Agreement provides that all files and documents pertaining to listings are the property of broker and shall be delivered to broker upon request or termination of the agreement. However, many brokers allow agents who take Images on their own, or hire others to do so, to retain them. Check with your broker for the office policy as it relates to Images.

If property does not sell while listed with a broker and after expiration of the listing, the seller signs a new listing with a different broker, may the second broker use photos that were already posted on the MLS?

No. Images may not be used without permission. Adding Images to a listing on the MLS does not transfer ownership rights to Images to the MLS or a subsequent listing broker, nor give the MLS continued rights to use them, consistent with MLS policy, once the original listing expires.