

Competition Tribunal Order June 3, 2016
re: Commissioner of Competition vs. Toronto Real Estate Board

FREQUENTLY ASKED QUESTIONS

****Please note that this is not an exhaustive list. As the situation continues to evolve, more questions and answers will be added as appropriate.***

As a TREB Member, you remain bound by and required to comply with all applicable laws, rules and regulations, including all TREB By-Laws, Rules, and Regulations, PIPEDA, REBBA as well as all RECO Rules and Regulations.

Failure to comply could result in legal proceedings and /or revocation of your MLS® System Access

Q 1. How can consumers access the data?

A. Consumers can only access data through a password-protected virtual office website (VOW) operated by a TREB Member for informational purposes in the context of residential real estate transactions.

Q 2. What do I have to do to my website to be compliant?

A. You and your service provider (if applicable) must sign and agree to be bound by a Virtual Office Website (VOW) Agreement with TREB as well as ensure your compliance with the Authorized User Agreement (AUA). If you plan to make sold, withdrawn, expired, suspended or terminated listing information (“Disputed Data”) available, you must do so in compliance with the VOW Agreement. Members providing access are responsible for how their actual or potential clients and customers use the information. The information can only be used to provide residential real estate brokerage services between a Member and a client or customer, and cannot be monetized in any way. Members and/or their service providers will be legally liable for any misuse of the information by themselves, their clients or customers.

Moreover, where a seller has directed the listing brokerage to withhold the seller’s listing or property address from display on the Internet, Members and their Authorized VOW Partners (AVPs) are prohibited under the VOW Rules and Policies from displaying this information on their VOWs. The information will be included in the VOW Data Feed, but will contain a flag indicating no consent for online display. Members and their AVPs must adhere to the flags in order for their VOWs to remain compliant.

Additionally, all Members are still bound by applicable legislation and rules, including *Personal Information, Protection and Electronic Documents Act* (PIPEDA) and *Real Estate and Business Broker’s Act, 2002* (REBBA, 2002) Code of Ethics and Regulations as well as provisions under Canada’s Anti-Spam Legislation (CASL) and the Do Not Call List.

Q 3. Am I allowed to scrape the data from the VOW feed? Can I use the data for any non-real estate brokerage business between a Realtor and client or customer?

A. No. The data cannot be scraped, mined, sold, resold, licensed, reorganized or monetized in any way, including through the sale of derivative products or marketing reports. The data cannot be used for commercial purposes other than to provide residential real estate brokerage services between a Realtor and a client or customer. Breach of this by either a Member or the member's clients or customers may result in legal action (including damages) against the Member and the cancellation of TREB Membership and TREB MLS System access.

Q 4. Can I advertise sold prices now?

A. No. However, you can provide sold information on a VOW so long as it is in accordance with the TREB Authorized User Agreement, VOW Agreement, the TREB By-Law, and all applicable laws and regulations. Please note that Members remain subject to *REBBA* with regards to advertising.

Q 5. When can we start posting the information online?

A. TREB made the updated VOW feed available on September 18, 2018. However, the information can only be used for the purpose of engaging in residential real estate brokerage services. Any other purpose is not permitted under the VOW agreement.

In order to obtain access to the new data, Brokers of Record of the **existing VOW Subscribers /or new VOW subscribers** must contact TREB by email at dataagreements@trebnet.com to request access to the data using the appropriate subject line below.

Brokers of Record of Existing VOW subscribers should email dataagreements@trebnet.com to request access to the data with subject line "Existing User New Data Feed Access".

Brokers of Record of New VOW subscribers should email dataagreements@trebnet.com to request access to the data with subject line "New User New Data Feed Access".

You may also call 416-443-8131 for any data agreement questions.

Q 6. Can non-Members post sold information?

A. The information cannot be used or posted by non-Members without specific authorization from TREB.

Q 7. My client or customer doesn't want the purchase price of their house disclosed online. Will that information be confidential?

A. If the client has consented to the release of the information on Stratus, the information will be made available on the data feed to VOWs. However, where a seller has directed the listing brokerage to withhold the seller's listing or property address from display on the Internet, Members and their Authorized VOW Partners (AVPs) are prohibited under the VOW Rules and Policies from displaying this information on their VOWs. The information will be included in the VOW Data Feed, but will contain a flag indicating no consent for online display. Members and their AVPs must adhere to the flags in order for their VOWs to remain compliant.

Entering incorrect information in the system (e.g., \$1 pending sold prices) is contrary to the MLS® Rules and Policies and could lead to disciplinary proceedings, as well as possible membership suspension or termination.

We will continue to listen to the feedback from Members, buyers and sellers regarding their personal information and take necessary steps to make sure that privacy laws are followed.

Q 8. What if a new client or customer doesn't want the information posted on a go-forward basis?

A. At this time, the information will be made available on the data feed to VOWs in accordance with the order.

However, a client or customer can request that their listing brokerage withhold their listing or property address from display on the Internet. In this case, Members and their Authorized VOW Partners (AVPs) are prohibited under the VOW Rules and Policies from displaying this information on their VOWs.

The information will be included in the VOW Data Feed, but will contain a flag indicating no consent for online display. Members and their AVPs must adhere to the flags in order for their VOWs to remain compliant.

Q 9. How can I get access to archived data?

A. In order to access archived unavailable listings data, VOW subscribers must fill out a special request form, which can be downloaded [here](#). You will need to fill this form out and return it by email to dataagreements@trebnet.com with the subject line "Access to Archived Data".

The Archived data will include archived listing data and photos beyond two years up until January 1, 2003, and will be retrievable in the form of .zip and .jpeg files using a different set of access credentials.

Q 10. What about historical sold price information where consents were given before websites were in existence?

A. TREB is reviewing the consent language and seeking clarification at this time.

Q 11. What happens to the "Distribute to Internet" field on MLS® DATA INFORMATION FORMS?

A. As of September 18, 2018, as part of TREB's compliance obligations related to the Competition Tribunal Order, if you select the "No" field for "Distribute to Internet Portals" on freehold and condominium MLS® Data Information forms, your listing will now be included in Virtual Office Website (VOW) data feeds.

However, where a seller has directed the listing brokerage to withhold the seller's listing or property address from display on the Internet, Members and their Authorized VOW Partners (AVPs) are prohibited under the VOW Rules and Policies from displaying this information on their VOWs. The information will be included in the VOW Data Feed, but will contain a flag indicating no consent for online display. Members and their AVPs must adhere to the flags in order for their VOWs to remain compliant.

After September 18, 2018, selecting "No" for the "Distribute to Internet Portals" field means your listing will not show up on IDX, DLA, DDF, REALTOR.ca and listings.trebhome.com.

Changes to online forms and agreements (PDF, Instant-Authenticsign, and WebForms) have been made. Updated hard copy forms will be made available to Members at a later date.

For now, hard copy forms will have the message above affixed to ensure all Members understand the change.

Q 12. Do you anticipate other changes to the VOW agreement, buyer representation or listing agreement?

A. We are reviewing these agreements in light of our obligations under the order and privacy laws and will provide updates in due course.

We are also considering whether changes are needed regarding how long listing photos should remain active on a broker's VOW website after the sale of a property has been completed.

Q 13. Does the order only affect the Toronto Real Estate Board?

A. At this time the order only applies to TREB and includes all listings that appear on the Stratus system (including listings from our partner boards, Durham Region Association of REALTORS® (DRAR) and Brampton Real Estate Board (BREB) and also interboarded listings. However, we expect that other boards will change their practices as well.

Q 14. Is the litigation with the Competition Bureau over?

A. There is no outstanding litigation with the Competition Bureau.

Q 15. Will my fees increase as a result of the decision?

A. Fees will not be impacted by this decision.

Q 16. Does TREB have an agreement with Zillow?

A. No, TREB does not have an agreement with Zillow. Any agreement will be between the Member and Zillow which TREB facilitates, similar to other Data License Agreements, by providing Zillow with access to the data feed.

DO YOU HAVE QUESTIONS OR WOULD YOU LIKE MORE INFORMATION?

If you have questions about this FAQ, please write to faq@trebnet.com and someone will get back to you.

If you would like to read the original June 3, 2016 order, please [click here](#).