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October 31, 2019

Attn: Cory Perkins cory.perkins@compass.com

Re: Bright's Off MLS Policy Stands for Cooperation, Transparency, and Access

Dear Cory:

We take very seriously your October 29, 2019, letter about Bright's new Off MLS Policy. As you are aware, we reached out to Compass' executive team multiple times for feedback in advance of announcing this Policy. In response, we were informed by one Compass executive that the company had "no opinion" on the Policy and were told by a second executive that he "agreed with the core tenets of the Policy." Two weeks after we provided you with a draft of the Policy, I personally responded to your email on October 16 with another offer to meet and discuss it - but you did not respond.

As a result, we were surprised by your letter and your choice to release it publicly today before we had a legitimate opportunity to respond to it or discuss it with you. We do not view your mention of legal concerns as the forefront of the issues you raise, but we would like to set up a meeting with you and your team at our offices in the next few weeks to discuss your concerns and lay out how Bright may work with you moving forward.

Bright stands for cooperation.

The center of the Policy is Bright's belief that the practice of marketing properties off the MLS, known as "Pocket Listings," puts brokers' own interests before consumers, while creating the appearance of (and enabling) fair housing law violations. At Bright MLS, we believe full transparency of and access to what is available on the market allows buyers and sellers to make the best decision possible.

The multiple listing service (MLS) is built on Cooperation - the fundamental tenet of the Broker business model. Of course, the Broker absolutely has the choice not to adhere to the rule of Cooperation with other Brokers, and adopt an alternate business model outside of the MLS marketplace. But ultimately, the Broker needs to be either in or out of the MLS system to ensure the necessary consistent collaboration needed for shared success. The central element of Pocket Listings--keeping listings off the MLS and broadly marketing them solely to a broker's private network--represent the flawed model wherein the Broker attempts to "have it both ways."

Pocket Listings are antithetical to the core of Bright's mission and operations as an MLS, which is to facilitate an open, transparent marketplace among real estate professionals that has proven over decades to provide the broadest access to buyers and sellers and promote the greatest degree of transparency and fairness possible. Pocket Listings foment exclusion and discrimination, and they circumvent the orderly cooperation that Bright facilitates among

participating real estate professionals. We believe the Off MLS Policy strengthens the value that the MLS delivers to homesellers and homebuyers. Furthermore, we have yet to see any evidence that the public benefits in any way from Off MLS listings.

With that being said, Bright aims to support, and not to intrude upon, marketing strategies that deliver value to homesellers and homebuyers within the letter and spirit of the ethical and legal boundaries governing real estate professionals.

We at Bright MLS believe that this policy encourages competition by assembling all information available and presenting that to all real estate professionals, and more importantly, to the consumer. Conversely, we do not believe business models that encourage market distortion or exclusionary practices are “pro consumer.”

Bright’s mission is to support the real estate market.

Only by having all of its subscribers’ listings in Bright’s MLS system does Bright function to facilitate a marketplace. Since its inception, Bright has always required that its participants enter their listings into the MLS once a listing agreement is in place with a homeseller. But, over time, a growing number of participants in the MLS have chosen to keep their listings out of the system. These listings, sometimes called “Pocket Listings,” are available only by searching that participant’s website, calling the participant, or in some cases only by being part of that participant’s exclusive social network. This decreases efficiency in the market, reduces the scope of promotion of the home, and makes it harder for others in the market to find the listing.

We believe Pocket Listings are bad for the market, bad for sellers, and bad for buyers. The only true beneficiaries of such exclusive programs are the individual organizations that facilitate them, as they stand to benefit from controlling inventory in order to generate revenue via both the buyer commission and the seller commission, rather than promote the best interests of homesellers and homebuyers to close the optimal transaction. But Bright also does not intend to stand in the way of legitimate, ethical practices to facilitate home sales, within the parameters of cooperation upon which Bright was formed.

Our rules attempt to reflect the marketing practices of the industry in a way that simultaneously aligns with the professional’s choice to participate in Bright’s MLS--to participate in a rule-based system of cooperation among real estate professionals means to comply with the rules of participation that promote cooperation. And real estate professionals have always had a choice not to participate if they believe they have a superior market solution. Some make that choice. But most recognize the value that Bright delivers.

This is why Bright is implementing its new “Off MLS Policy,” which requires all listings to be submitted to Bright within one business day of the listing being otherwise publicly marketed.

Bright is standing up for fair housing.

History has shown that many times listings are kept out of the MLS to avoid--whether or not intentionally--certain demographic subsets of potential buyers or to circumvent the rules applicable to MLS listings that promote standards for ethical and complete information. Bright MLS’s new policy takes a strong stance against that activity and its pernicious outcomes. By ensuring that all listings are included in the MLS, Bright is ensuring that all listings are shared with the entire market, not just an exclusive group or those participants and potential buyers that

happen to search within a particular participant's site. This policy encourages equal and open access for all consumers and the professionals whom they have chosen to represent them.

The arguments against the new policy largely reflect misunderstandings about the policy and how it fits within Bright's rules and tools.

The operational arguments made about Bright's Off MLS Policy largely illustrate the importance of the new policy and how Bright's existing business rules support and facilitate the promotion of homes to optimize their value and the ease of the transaction for homesellers and homebuyers.

A. Argument: Agents perceive value in "Pre-MLS Marketing" before listing a home on the MLS.

Bright supports and facilitates "pre-marketing" before a house is ready to show. But "Pre-MLS Marketing" merely limits the scope and scale of marketing a home, and can lead to misinformation about a home to the public and to real estate professionals.

Pre-MLS Marketing as we understand it is really a way to make access to information about a listing harder to find by those in the market -- if agents and consumers must come to just one website to find a listing, and conversely search dozens of websites to find available listings, that is far less transparent than if all listings are found in the MLS and on thousands of websites, which Bright helps to facilitate at the seller's option.

Pre-MLS marketing also artificially reduces the calculation of a home's days on the market. Homes first marketed for weeks or months outside the MLS will incorrectly appear to have been marketed for a shorter period than reality, leading to misinformation being provided about the marketing of the home. This impacts market perception, appraisals, and reduces transparency to the market.

One of the ways that Bright supports building a home's sales value, including by testing out pricing and marketing strategy, is through Bright's unique "Coming Soon" status option. When a listing is being "pre-marketed," before showings begin and the listing is actively marketed, the listing may be entered into Bright's system under the "Coming Soon" status. When the listing is in that status, Bright does not accumulate days-on-market (DOM). While in Coming Soon status, the listing agent may advertise the listing in any manner they wish. This has been in place for years and has functioned well.

B. Argument: Agents need to pursue clients' best interest and their instructions.

Bright's Off MLS Policy is consistent with Bright's purpose of facilitating the promotion of a seller's home to the widest possible audience and with the most robust, reliable set of information available about the home. This is in the client's best interest, as economic studies repeatedly and consistently demonstrate that this maximizes value for the seller.

Bright's policy recognizes, however, that some clients wish to keep their listing private and not have it posted on websites for everyone to see. For those clients, Bright's system allows an agent when entering a listing to "opt out" of distribution of the listing to third-party websites. Alternatively, the seller may complete a waiver form and choose to make the listing an "office exclusive," which then may be marketed within the brokerage and on a one-on-one basis (i.e., not publicly marketed), per the seller's wishes.

C. Argument: By imposing requirements on Pre-MLS Marketing, innovative marketing tactics are stifled.

Bright's policies do not define, limit, restrict, or require any marketing activities. The Off MLS Policy simply says that if a Bright subscriber is marketing a listing to the public, that listing must also be entered into the Bright system as part of being a Bright subscriber. Just like the ethical rules require a licensed agent to show a home to any other licensed agent, Bright's rules set a baseline standard for cooperation to maximize a home's sales opportunity and minimize discrimination against any group of potential buyers. Once the listing is in the system, the agent maintains complete control over how the home is marketed.

Some brokers want to do business in a way that we believe is not in the best interest of homesellers and homebuyers, and is not in the interest of fair housing laws--they want to force listings to be shared only within smaller groups or only on certain websites. We believe that the way to ensure that housing is fair is to ensure that listings are available to everyone on the market. We are monitoring off-mls listing activities for potential fair housing violations, and fully intend to publicize improper activity.

Our mission is to serve the marketplace. The marketplace is best served when listings are all shared to their maximum extent. Participation in this cooperative mission means that listings are shared with all participants under an agreed set of rules. Those who believe they can profit under other rules may choose to do so, of course, by choosing alternate avenues to the MLS model.

D. Argument: Potential buyers are less likely to have access to a listing that is in the "Coming Soon" status.

Subscribers may advertise their listings in any manner they wish. We are transparent. Our goal is to serve the consumer in an unbiased, efficient manner. Our system does not restrict distribution on the Internet; Bright subscribers may advertise their listings however they wish in their client's best interest, as long as the listing is in the MLS as well.

E. Argument: Historical litigation and U.S. government enforcement efforts against other MLSs suggest that restrictions on new entrants and competition are not aligned with U.S. antitrust law.

None of the prior litigation or investigations in this industry have any bearing on Bright's Off MLS Policy. Those cases were about *excluding* people from access to other MLS (not Bright's) data and services. Bright's policy is all about *inclusion* -- no one is being excluded and, in fact, Bright's policy ensures that participants are not using private networks and exclusive clubs to exclude others in the market from accessing homes for sale.

In fact, every broker business model -- including lower-cost models, online models, premium services, and other novel broker models -- benefits from this policy because they each are able to serve more clients with more listings and more access, all while maintaining the flexibility to choose marketing tactics and how much (or little) to share with a cooperating broker.

We note, finally, that several metropolitan MLSs around the country have implemented policies similar to Bright's new policy, and have enforced the same type of requirement for years, without concerns like yours being raised from real estate professionals and without the market and consumer concerns you hypothesize.

We are confident that our policy is right for the market, right for homebuyers and homesellers, and right for real estate professionals. We acknowledge that there are nuances of the policy that need clarifying and augmentation, and based on some very helpful feedback over the last few weeks, we have developed interpretative guidance available online, which we augment regularly.

Bright welcomes input on how to improve the policies and tools that nearly 100,000 real estate professionals in the Mid-Atlantic choose to use to market hundreds of thousands of homes. We have received a lot of helpful feedback on the policy since we announced it, and your letter provides some additional data points for us to consider as we refine the policy's implementation over the coming months. We cannot, however, tacitly approve the practice of Pocket Listings by withdrawing the Off MLS Policy or making expansive exceptions that would make the policy meaningless.

We believe the requests in your letter are worthy of further discussion so that we can be sure we are considering them appropriately. Please let us know when you can be available to meet with us.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brian Donnellan". The signature is fluid and cursive, with the first name "Brian" and last name "Donnellan" clearly distinguishable.

Brian Donnellan
President and Chief Executive Officer
Bright MLS, Inc.