



Prior to the late 1990s, the listings on an MLS generally were directly accessible only to real estate brokers who were members of a local MLS. At that time, the MLS listings typically were made available through books or dedicated computer terminals, and generally could only be accessed by the public by physically visiting a broker's office or by receiving a fax or hand delivery of selected listings from a broker.

Information from an MLS is now typically available to the general public not only through the offices of real estate brokers who are MLS members, but also through three principal categories of internet web sites. First, information concerning many MLS listings is available through Realtor.com, a national web site run by the National Association of Realtors ("NAR"). Realtor.com contains listing information from many local MLS systems around the country and is the largest and most-used internet real estate web site. Second, information concerning MLS listings is often made available through a local MLS-affiliated web site. Third, information concerning MLS listings is often made available on the internet sites of various real estate brokers, who choose to provide these web sites as a way of promoting their brokerage services to potential clients (home buyers and sellers). Most of these various web sites receive information from an MLS pursuant to a procedure known as Internet Data Exchange ("IDX"), which is typically governed by MLS policies. The IDX policies allow operators of approved web sites to display MLS active listing information to the public.

Today the internet plays a crucial role in real estate sales. According to a 2006 survey by the National Association of Realtors ("NAR"), 80 percent of home buyers used the internet to assist in their home search, with 59 percent reporting frequent internet searches. Twenty-four percent of respondents first learned about the home they selected from the internet, the second most common means behind learning about a home from a real estate agent (36 percent).<sup>1</sup> In all, 73 percent of home buyers found the internet to be a "very useful" source of information, and a total of 98 percent found the internet to be either "very useful" or "somewhat useful."<sup>2</sup> Moreover, the NAR Survey makes clear that the overwhelming majority of web sites used nationally in searching for homes contain listing information that is provided by local MLS systems.<sup>3</sup>

#### **A. Types of Real Estate Brokerage Professionals**

A typical real estate transaction involves two real estate brokers. These are commonly referred to as a "listing broker" and a "selling broker." The listing broker is hired by the seller of the property to locate an appropriate buyer. The seller and the listing broker agree upon

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<sup>1</sup> *E.g.*, PAUL C. BISHOP, HARIKA BICKICIOGLU, AND SHONDA D. HIGHTOWER, THE 2006 NATIONAL ASSOCIATION OF REALTORS PROFILE OF HOME BUYERS AND SELLERS (hereinafter, "NAR Study") at 3-3, 3-4, 3-6.

<sup>2</sup> *Id.* at 3-5.

<sup>3</sup> NAR Study at 3-19.











