



This is the third and final installment of a short series intended to help you, the real estate professional, understand why and how copyrights are important to your businesses and to the real estate industry in general.

Last month we discussed copyrights, what they are and why real estate professionals need to pay attention to copyright rights whenever they consider using someone else's copyrighted materials. As we discussed, this applies to listing content and related information provided by the MLS.

PART III: Data, Content & Copyrights: Let's Talk



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So all of this begs the question, when — and from whom — should permission be sought?

It's summertime, so consider the case of one neighbor borrowing a neighbor's lawnmower without first asking permission. Permissible or impermissible? Would your answer change if the garage door were open or if the neighbor borrowing the lawnmower believed that the greater good would be served by everyone's having a neatly landscaped lawn? Would a subsequent apology make the original act acceptable?

The answers are the same if, instead of lawnmowers, we are talking about copyrighted listing information. So, as a general rule, to use copyrighted content, permission should be sought either from:

- the copyright owner, or
- from a licensee authorized by the copyright owner to grant permission.

For example, let's say that Brokerage B is receiving MLS content through an IDX or RETS feed. Even if Brokerage B has the right to license its *own* listings to third parties, Brokerage B would not have the right re-license or redistribute anyone else's content in the

feed without additional permission covering those uses. To do so without permission would be copyright infringement — and remember that copyright ownership provides a legal remedy for copyright infringement.

So, to wrap up our conversation, I leave you with the following thoughts:

- Copyrights matter to real estate professionals.
- As a general rule, don't assume that just because materials are available online or easily copied, they are "in the public domain." Publicly available does not equal public domain.
- It is safer to assume that content comprised of original, creative materials as well as factual information, is protected by copyright. Therefore there will most likely be someone who has an interest in any unauthorized use.
- Remember that there is an appropriate procedure to follow if you desire to use copyrighted materials rightfully.

Yes, a great deal of emotion, money, market perception, and — unfortunately — confusion, surround any discussion of copyrights and the real estate industry. As we all know, copyrights generally are not "front burner" issues for busy practitioners in the field; however, practitioners need to be sensitive to copyrights as we move forward in this digital age.

I have enjoyed this opportunity to talk about copyrights with all of you these past months. In particular I appreciate all of the questions and feedback you have provided, and look forward to continuing to work with you.

Please send your comments about this article or suggestions for this series to me at copyrights@mrис.net. I look forward to continuing this conversation with you. 🇲🇩🇺🇸

These comments are the opinion of the author only. Nothing in this article is intended as or should be considered to be legal advice. Portions of this article are adapted from the recently released MRIS Guidance Paper: Strengthening the Foundation, Part 1, The Real Estate Listing Content Copyright FAQ, available online at: www.mris.com/news/papers/index.cfm.