

International Listings Can Be Input Into the HAR MLS

By Wayne A. Stroman

Houston MLS members now have the ability to place listings from around the world into the HAR MLS.

Since 1990 we have added several Texas counties as MLS "Z" Areas. We have annexed half way to Dallas, San Antonio and all of Southeast Texas. In the past we had an area 27 that was a catch all for properties that did not fit into the local Houston area. It has recently been closed to input as we opened three new areas so that searching those areas would be easier. The new areas available on the HAR MLS are 80 for the balance of Texas, 81 for the balance of the USA and 82 for all International properties.

Our members need information on the do's and don'ts of input on these new areas. We posed a few questions on listings for area 82 to HAR legal counsel Dick Hargis of Hargis & Harpold, LLP and HAR MLS Director Shawn Dauphine that will help:

Listings input for MLS area 82

1. What agreements qualify?

J. Richard Hargis: Exclusive Right to Sell Listing Agreement and Exclusive Agency Listing Agreement. The TAR listing forms should suffice with possible minor revision (i.e., county, state, country.)

2. What if they are listed with a real estate marketing company in that country?

J. Richard Hargis: If a foreign property is listed with a foreign broker in that country, then the Texas broker probably would want to enter into a Marketing Agreement with the owner and foreign broker. The owner of the property would have to sign the tri-party Marketing Agreement in order to list the property in the HAR MLS. The Marketing Agreement would be similar to the TAR Listing Agreements in terms of the required information (property description, etc.) and terms of the commission arrangement with the owner and foreign broker as well as cooperative compensation being offered through the MLS.

3. Should the agreement be notarized?

J. Richard Hargis: I don't think the signatures need to be notarized, but it wouldn't hurt.

4. Is there a field in the MLS that says that the agent did a due diligence?

J. Richard Hargis: There is no field in MLS that asks if the agent did a due diligence and we would not anticipate ever having such a field. Texas brokers have no duty to inspect or determine the existence of defects in a listed property over and above asking the owner if defects exist. Other than those things, no due diligence is required of the listing broker.

Shawn Dauphine: The listing agent/broker should be careful to be familiar and in compliance with laws and licensing requirements in the country/state where the listed property is located.

5. What disclosures should I use?

J. Richard Hargis: If the foreign property is a residence, then the owner could complete a Seller Disclosure Notice. Perhaps there is some property disclosure law applicable in the country where the property is located. If so, that law should be complied with by the Texas broker.

6. What currency should be used?

Shawn Dauphine: All denominations should be in US Dollars

7. In what language should the list agreement be written?

Shawn Dauphine: Your exclusive and agency listing agreements will need to be in English. There are Spanish versions available so your client can understand what they are signing but the signed copy must be in English.

8. Do we have an International Commercial Seller's Listing Agreement and an International Commercial Buyer's/Tenant Agreement that would work?

J. Richard Hargis: No, there is no such thing as an International Commercial Seller's Listing Agreement or International Commercial Buyer/Tenant Representation Agreements.

It should be noted that all listing measurements should be in feet and inches and not in metric. Also the MLS has the right to audit your listings. At any time for good reason they can ask you to submit listing documents to see you are in compliance.

International property listings can be complicated and require particular knowledge. I advocate obtaining the Certified International Property Specialist, CIPS, through NAR. The training required is only one week of classes and it gives you so much insight into handling international transactions.

An International transaction as defined by NAR is where any aspect of the transaction has an international component to it, the buyer, the seller, the location of the property or the financing. Buyers or sellers who are US citizens but still heavily influenced by a foreign culture are considered to be "international" as well.

The bulk of international business done by NAR members is done locally. If you have any questions, please do not hesitate to contact the MLS department at HAR.