

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

IN THE MATTER OF an application by the Commissioner of Competition pursuant to section 79 of the *Competition Act*

AND IN THE MATTER OF certain rules, policies and agreements relating to the residential multiple listing service of the Toronto Real Estate Board.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

AND

THE TORONTO REAL ESTATE BOARD

Respondent

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| COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE | |
| FILED / PRODUIT | |
| August 31, 2011 | |
| Jos LaRose for / pour REGISTRAR / REGISTRAIRE | |
| OTTAWA, ONT | # 18 |

AFFIDAVIT OF GARY SIMONSEN
(Application for Leave To Intervene by CREA)

I, Gary Simonsen, of the Town of Maberly, in the Province of Ontario, MAKE OATH
AND SAY AS FOLLOWS:

1. I am the Chief Executive Officer of The Canadian Real Estate Association ("CREA") and have held that position since July 3, 2011. Prior to becoming CEO, I was

the Chief Operating Officer of CREA for approximately three years, and prior to becoming COO in 2008, served CREA for approximately a decade as its Associate Executive Officer. As a result, I have personal knowledge of the matters referred to in this affidavit except where any information is stated to be based on information and belief, in which case I verily believe that information to be true.

Introduction and Summary of Position

2. CREA seeks leave to intervene in the Commissioner's Amended Application for an order against the Respondent pursuant to section 79 of the *Competition Act* in relation to the use of the Internet by the Respondent's member real estate brokers to provide services to their customers.

3. CREA is the national voice of the Canadian real estate industry on significant issues affecting that industry, including the issues raised by the Amended Application. CREA is directly affected by the Amended Application by virtue of its trademark rights in the MLS® and REALTOR® Trademarks (as defined below) and due to the fact that any Order issued by the Tribunal will directly affect how CREA's members across Canada provide services using the Internet. As a result of being at the forefront of the development of innovative Internet services for use in the Canadian real estate industry, CREA is uniquely positioned to provide the Tribunal with a valuable perspective, including in respect of (i) the operation of VOWs (as defined below) and similar Internet and data sharing vehicles in the Canadian marketplace, (ii) how the Order sought by the Commissioner would impact the Canadian real estate industry as a whole and (iii) the competitive effects of VOWs (and similar services) and the appropriateness of the relief sought by the Commissioner.

Background Facts – CREA And Board MLS® Systems

4. CREA was incorporated in 1954 under Part II of the *Canada Corporations Act* and is one of Canada's largest single-industry trade associations.
5. CREA represents over 100,000 real estate brokers and agents working through approximately 100 real estate boards and associations, including provincial and territorial associations. Membership in CREA is open to real estate boards and associations, as well as their members in good standing, and is conditional on agreeing to be bound by, amongst other things, the REALTOR® Code (CREA's code of ethics), CREA's By-Laws and Rules, Privacy Code and Principles of Competition, as well as applicable federal and provincial laws.
6. Each province/territory regulates and licences the real estate boards/associations, brokers and agents within its jurisdiction. The regulatory regimes differ across Canada. Accordingly, there are differences across Canada in terms of the standards and requirements imposed on brokers, agents, boards and associations.
7. As the national voice for the Canadian real estate industry, CREA's key objectives include national representation of the industry on issues at the federal government level, assisting members in understanding the *Competition Act* and its effect on their business, formulating professional standards, acting as an interactive forum, and researching and disseminating information on issues affecting the real estate industry, including technological issues.
8. CREA owns the Multiple Listing Service® trademark, the MLS® trademark, and the associated logos (the "MLS® Trademarks"). The MLS®

Trademarks identify professional services provided by CREA members to effect the purchase and sale of real estate as part of a cooperative selling system.

9. The trademarks REALTOR® and REALTORS® and the associated logos (the "REALTOR® Trademarks") are owned by REALTOR® Canada Inc., a company owned by CREA and the National Association of REALTORS®, the national real estate industry association in the United States. In Canada, the REALTOR® Trademarks identify licensed real estate practitioners who are CREA members.

10. Both the MLS® Trademarks and REALTOR® Trademarks are an assurance of integrity and identify a certain standard of brokerage services and professionalism. They can only be used in Canada by members in good standing of CREA.

11. An MLS® System is a cooperative selling system operated by a local board or association in association with the MLS® Trademarks (under license from CREA). It provides an ongoing inventory of available properties listed for sale by REALTORS® and ensures a certain level of accuracy of information, professionalism and cooperation among REALTORS® to effect the sale of real estate. This inventory is accessed by REALTORS® by virtue of their membership in the local board/association. Some boards also have inter-board agreements with other boards to allow access to MLS® listings.

12. In order for a board's/association's MLS® System to operate effectively and to maintain the distinctiveness of the MLS® Trademarks, REALTORS® must adhere to certain standards which promote confidence in, and the reliability of, the

system. These standards ensure that the quality of the information is high and available on a timely basis.

13. While only REALTORS® can enter information concerning properties for sale on a board's/association's MLS® System and access the information entered by other REALTORS® on that system, a portion of the listing information contained within a MLS® System may be uploaded by local boards/associations to a public website at REALTOR.ca (formerly MLS.ca). REALTOR.ca is operated by CREA and is a means of disseminating information to the public about properties listed by REALTORS® across Canada.

14. In 2010, 478,600 properties included in the various board/association MLS® Systems were sold, with a total value of more than \$159.5 billion. The residential portion of MLS® sales was approximately 93.4%.

CREA Is The National Representative Of The Canadian Real Estate Industry

15. Over the past 10 years, CREA has made over 70 submissions to various federal governmental entities on a broad range of federal legislation that affects the real estate industry.

16. Many of CREA's significant submissions on federal matters have been in relation to competition law matters. CREA has consistently undertaken an intermediary role in relation to competition issues of concern to the Canadian real estate profession by advising its members of the Competition Bureau's (the "Bureau") perspective on competition issues and ensuring that its membership's views and concerns are communicated to the Bureau.

17. For example, in the recent past, CREA has participated in a number of consultation processes relating to various issues under the *Competition Act* (Canada), including consultations conducted by the Bureau, the House of Commons Standing Committee on Industry, Science and Technology and the Public Policy Forum, on matters such as Bill C-10 (2009 amendments to the *Competition Act*), the Bureau's 2009 draft Competitor Collaboration Guidelines, the Bureau's 2008 draft Information Bulletin on Trade Associations, and Bill C-19 (2005 proposed amendments to the *Competition Act*).

18. CREA has also taken a leadership role in ensuring that competition issues are properly addressed within the Canadian real estate industry. In 1999, CREA created the Principles of Competition, adherence to which is a condition of membership. CREA also coordinates a national competition awareness campaign and provides an online competition compliance program for REALTORS®.

CREA's Response To Technology And The Internet

19. The Internet has had a significant effect on the real estate industry, and CREA has been at the forefront of the Canadian real estate industry's response to the challenges and opportunities created by the advent of the Internet. The local boards and associations look to CREA for leadership and guidance on these issues. As a result, CREA has a unique national role and expertise in matters directly relevant to this Application.

20. CREA's MLS® and Technology Council (the "MTC") has been at the forefront of CREA's initiatives in relation to the Internet. The MTC reports to CREA's

board and is responsible for devising strategies and policies for the provision of national technological services (including data management, delivery and security), researching technology trends and their impact on the real estate industry, facilitating the creation of national data standards for the operation of the MLS® Systems and facilitating in the determination of national data and information sharing solutions.

21. CREA has always supported the use of new and innovative business models which improve customer service and give REALTORS® greater flexibility. In that respect, CREA is supportive of the provision by REALTORS® of relevant, accurate and up-to-date information to customers through the Internet in a manner which protects and preserves the integrity and quality associated with its trademarks, appropriately addresses privacy concerns and meets the requirements of the relevant provincial and federal legislation.

22. For the past decade, the MTC has studied the potential use of the Internet to provide new and innovative services and has devised several proposals and policies to meet this objective, including the following.

23. First, at the time when the Internet began to gain prominence as a vehicle for commercial applications, CREA launched an initiative to respond to the technological revolution that the real estate industry was facing. One of the end results of this initiative was the establishment in 1995 of MLS.ca (the predecessor to REALTOR.ca), with the cooperation of boards/associations across the country. CREA assumed the operation of this public website in 1999.

24. Second, in 2002, the MTC established the Electronic Data Usage Task Force (the "EDU Task Force") to develop guidelines for the use of electronic data for local boards and associations. The EDU Task Force considered three vehicles for sharing data through the Internet, as well as the provision of information for use by third parties.

25. The three vehicles considered by the EDU Task Force were Internet Data Exchange Networks ("IDX"), Virtual Office Websites ("VOW") and Deep Link Framing ("DLF"). These vehicles are referred to as "permissions based technology" and can be summarized generally as follows:

- (a) An IDX is a reciprocal system whereby consenting brokerages agree to advertise on their Internet websites each other's active property listings, either from the MLS® System of the relevant local board/association or from REALTOR.ca, subject to the rules of the relevant local board/association and the REALTOR®'s oversight.
- (b) A VOW is a broker or REALTOR® Internet website through which the REALTOR® provides real estate services to consumers with whom the REALTOR® has first established a broker-consumer relationship, where the consumer has the opportunity to search for MLS® data from the MLS® database of the board/association, subject to the rules of the relevant board/association and the REALTOR®'s oversight.
- (c) A DLF is an inexpensive Internet marketing tool using the current technology of REALTOR.ca for both display and searching of listings.

26. After considering the numerous issues raised by these three vehicles of permission based technology, the EDU Task Force delivered a report in October, 2003. The EDU Task Force Report encouraged local boards/associations to enable members to display on their public websites aggregated MLS® active listing information, subject to the board's/association's rules and provincial law. In addition, the EDU Task Force provided detailed guidelines and proposed rules that boards/associations could use in

setting up their own permission based technology systems, including IDXs and VOWs, as well as a model contract for use with third parties who wish to provide these services to REALTORS®.

27. CREA also developed rules and guidelines whereby CREA (as opposed to a local board/association) could provide the actual technology services necessary for the implementation of IDXs, VOWs, and DLFs (the "Permissions Management Guidelines"). The goal of the Permissions Management Guidelines was to provide a cost-effective alternative for a board/association to offer permission based technology to its members. A copy of the most recent version of the Permissions Management Guidelines (version 2, published in 2005), is attached to my affidavit as Exhibit "A".

28. The technology services offered by CREA under the Permissions Management Guidelines are not mandatory for CREA members. Rather, each board/association was able to decide whether its members would be permitted to access CREA's services, as opposed to the board/association simply offering these technology services on its own (as it was entitled to do).¹

29. Boards and associations who allowed their members to access the technology services offered by CREA under the Permissions Management Guidelines were required to comply with the Permission Management Rules specified by CREA in the Permissions Management Guidelines. The Permission Management Rules contain detailed rules and requirements for the use of the CREA permissions management system in general (such as in relation to trademarks, obtaining authorization, content of

¹ Accordingly, VOWs and IDXs can be provided through CREA or through local boards/associations (either directly or by retaining third party providers).

frames created and display of pages) as well as separate detailed rules and requirements for using each of the CREA DLF, VOW and IDX vehicles.

30. Third, in July 2008, CREA created a VOW Task Force to review various areas of concerns raised by the Bureau with respect to VOWs in Canada and to make recommendations if appropriate. The VOW Task Force held a number of meetings with the Bureau and consulted with CREA members across Canada on the issues relevant to a VOW policy. The Bureau and the VOW Task Force did not reach an agreement on the appropriate terms and conditions for a national VOW policy as of 2010, when discussions between the Bureau and CREA ceased.

31. Fourth, the MTC has recently proceeded to the next stage of promoting the use of technology and Internet access by designing a data distribution facility for Canadian REALTORS® (the "DDF"). CREA's DDF proposal, developed after research and consultation with the industry, is intended to supply publicly available MLS® listing content for publication on both member and non-member (i.e., third party) websites. It is a permissions-based system that will allow brokers to share their listings with other brokers, as well as to send their listings to third party websites. The DDF consists of three modules² and, at each stage, brokers will be able to decide if they wish to share listing content for display on other brokers' websites, display the listing content of other

² Module One, the National Shared Pool Module, will allow brokers to contribute their listings to a national data pool and receive a feed from that pool to display all other participants' listings on their websites. Module Two, the Member Feed Module, will enable brokers and salespeople to have their listings fed back to their own website to ensure consistency and accuracy of data. Module Three involves the distribution of data to third party websites outside of organized real estate. It will include procedures to ensure that information contained on third party sites remains accurate and up to date, as well as and terms and conditions on the use of the data.

participating brokers on their own website, and/or send their listing content for display on third party sites.

32. The establishment of CREA's DDF policy was approved at CREA's Annual General Meeting on April 2, 2011. The rules and policies relating to DDF that boards/associations will be required to follow are in the process of being finalized and it is expected that the DDF will be available before the end of this year.

33. Lastly, CREA's Board of Directors recently created a new VOW Task Force to assess and develop a national VOW policy, which is intended to provide guidance to boards/associations and to REALTORS® offering online brokerage services to consumers. This VOW Task Force will build upon the work of the previous CREA VOW Task Force (which, as noted above, operated from 2008 to 2010 for the purpose of discussing concerns about VOWs raised by the Bureau).

Status of VOWs in Canada

34. As is evident from the above summary, CREA does not currently have a mandatory rule which specifically governs the use of VOWs or similar Internet vehicles by members across Canada. Rather, CREA's REALTOR® Code provides that VOWs, IDXs and any similar sites or technologies which display properties of other REALTORS® shall be subject to all applicable laws and be operated in accordance with the rules established by the local board/association for such sites.

35. Canada's experience with VOWs and similar Internet vehicles has varied considerably across the country.

36. This variability is due to a number of factors. First, each local board/association is subject to specific regulation by their province or territory, and that regulation may differ.³

37. Second, for those provinces/territories where VOWs or other Internet vehicles are an option, only a selection of local boards/associations have implemented a formal policy to date and, for those that have, the rules differ for a number of reasons, including the particular factual circumstances faced by the board/association. Related to this is the fact that the demand for the use of Internet vehicles has varied considerably across the country.

38. CREA is also aware that a number of its member boards/associations currently without a formal policy are considering implementing Internet information sharing policies. The filing of the Amended Application has created confusion and uncertainty in the industry, which CREA believes will delay the development of such policies until the Amended Application is resolved.

The Matters In Issue In The Application Directly Affect CREA And Its Members

39. The Order requested by the Commissioner is both extremely broad and imprecise in nature. The Order requested, in essence, seeks to allow brokers to use the information from boards'/associations' MLS® Systems to provide services over the Internet (including, but not restricted to, VOWs), without any restrictions, including any restrictions which might be mandated by provincial or other federal regulation. Further, in the Order requested, the Commissioner asks that the Tribunal "direct" the

³ For example, CREA's understanding is that VOWs are not available in Quebec.

Respondent to "implement" resources and facilities that are necessary to ensure the operation of VOWs or "similar services".

40. Considering the breadth of the Application and the Order requested, the Tribunal's decision will have national implications for the real estate industry and therefore will directly affect all of CREA's members. As the representative of the Canadian real estate industry, CREA has a direct and significant interest in the competitiveness, efficiency and reliability of that industry.

41. Any Order in respect of the use of VOWs and any other Internet vehicles will directly affect the ability, format and extent to which CREA members across Canada can and will provide information to their customers using the Internet.

42. In addition, CREA has a direct interest in the Application by virtue of its trademark rights in the MLS® and REALTOR® Trademarks. CREA has been diligent to ensure that those trademarks are associated with a high standard of professionalism and with the provision of accurate and up-to-date information. CREA therefore has a direct interest in ensuring that any use on the Internet of information sourced from a MLS® System is subject to sufficient rules and policies that protect those standards.

CREA's Unique And Distinct Perspective

43. CREA is the recognized voice of the Canadian real estate industry on important issues affecting that industry, including competition matters in general and the very issues (i.e., use of the Internet, including VOWs) at issue in this Application.

44. In considering the Application and, in particular, the impact the Order requested by the Commissioner may have, it will be important for the Tribunal to understand, amongst other matters, (i) the different types of Internet services and data sharing available to the real estate industry and the resources required to provide those services, (ii) the issues associated with the creation, implementation and enforcement of the different types of Internet services and data sharing, and (iii) the extent to which Internet services are being used in the industry across Canada and the reasons for differences across provinces or regions. CREA is uniquely positioned to provide the Tribunal with a national perspective on the operation of VOWs and similar Internet and data sharing vehicles in the Canadian market place, including in relation to these matters.

45. In developing proposed rules and policies for the various Internet and data sharing vehicles, including the CREA VOW program, the MTC carefully considered all of the relevant issues, including the very issues that the Tribunal will face in determining whether an order should issue in this Application and, if yes, the content of an appropriate Order. Because of its position and experience with permission-based technology, including VOWs, CREA is uniquely qualified to address the specific issues that are triggered by the use of Internet and data sharing vehicles in the Canadian real estate industry. Those issues include the following:

- (a) **Definition** – the appropriate definition of a VOW, IDX or similar website;
- (b) **Customers** – the pre-conditions for participation, including, with respect to VOWs, the necessity for a broker-client relationship, the issue of compliance with all provincial laws (including disclosure obligations) and the requirements for registration (including the information that must be

provided by a consumer before they are permitted access to a VOW, and security related features);

- (c) **Terms of Use** – the terms that a customer should agree to (and the form of any agreement) in order to have access to a VOW, including with respect to the use of the information received, as well as the terms that should not be imposed on a customer as a pre-condition to access;
- (d) **Participants** – who should be permitted to participate in terms of providing information through a VOW;
- (e) **Information Provided** – which data/information can and should be provided, including the issue of geographic boundaries and what information should qualify as "confidential information";
- (f) **Opt-Outs** – whether a seller or listing agent should be able to prevent a listing from being accessed on a VOW and, if yes, the procedure that should be followed;
- (g) **Privacy Issues and Concerns** – the effect of privacy legislation on VOWs and similar services, including the need for a privacy policy informing consumers how information they provide can be collected, used and disclosed, in accordance with applicable privacy legislation.⁴ (Historically, CREA has taken the lead in addressing privacy issues and concerns that are relevant to the Canadian real estate industry⁵);
- (h) **Referrals** – whether there should be any restrictions or rules relating to referrals;
- (i) **Security Protections** – the nature and extent of Internet security requirements that should be imposed on brokers who operate VOWs or similar vehicles; and

⁴ "PIPEDA" prohibits the disclosure of "personal information" about a person without that person's consent, unless the information is publicly available and is specified by the regulations. The Privacy Commissioner has concluded that, in some contexts, "personal information" can include the purchase price of real estate and it is not enough for personal information to be simply available from a public source for an organization to be able to lawfully disclose it without obtaining the individual's consent – rather, it must also have been collected from the publicly available source for the specific disclosure at issue. See PIPEDA Case Summary #20090992, 2009 CanLII 49330 (P.C.C.).

⁵ For example, CREA has developed an information kit for all levels of real estate, including a brochure for distribution to home buyers and sellers outlining their privacy rights under PIPEDA. CREA also developed a Privacy Code for all members. The CREA Privacy Code is based on the 10 principles of PIPEDA, including obtaining consent for the collection, use or disclosure of personal information and only using such information for the purposes discussed.

- (j) **Monitoring and Regulation of VOWs** – the appropriate procedures to ensure that the local boards/associations and CREA can monitor the VOWs and ensure compliance with applicable rules and policies.

46. CREA can also provide valuable assistance to the Tribunal regarding the implications of the Order sought by the Commissioner. Considering that the effect of any Order will extend beyond the Respondent, it will be important for the Tribunal to understand how the Order requested would impact the Canadian real estate industry as a whole, considering the different provincial regimes across Canada and the different demand for and experience with VOWs and similar services. In this regard, CREA has valuable and relevant experience in real estate issues across Canada, how regional differences may affect VOWs and similar services, and the implications of the potential outcomes of the Amended Application on boards/associations across Canada.

47. Lastly, in terms of the section 79 analysis specifically, given its expertise and experience, CREA will also have unique and helpful views on the appropriate definitions of product and geographic market, the purpose, use of and likely competitive effects of VOWs and similar services, and the suitability and/or effectiveness of the remedies requested by the Commissioner. By way of example:


- (a) The Amended Application raises the issue of the competitive effect of VOWs in comparison to services provided in the traditional bricks and mortar context. The Commissioner assumes that a VOW should be viewed as a "stand-alone" operation that is and can be used to the exclusion of broker services provided through "bricks and mortar" operations. This is not the appropriate way in which to characterize VOWs which exist as a complement to traditional broker services.
- (b) CREA disagrees with the Commissioner's statements concerning benefits that will result from the use of VOWs and wishes to respond on both the price and non-price effects of VOWs, as well as similar services. In this regard, increased innovation is provided not only by VOWs, but also by a number of additional Internet vehicles, such as CREA's DDF. Since

VOWs are only one option, and brokers and agents can effectively compete using other options, it is important that this proceeding not have the effect of restricting the type of innovation permitted in the industry.

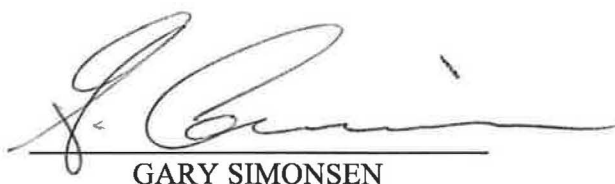
Conclusion

48. I confirm, on behalf of CREA that, if permitted to intervene, CREA;
- (a) will not seek to raise any issues beyond those raised by the Amended Application;
 - (b) will not seek its costs for participating in this Amended Application and requests that it not be liable to pay the costs of any other party;
 - (c) undertakes to conduct and coordinate its intervention so as not to be duplicative of the representations of other parties; and
 - (d) undertakes to comply with the *Competition Tribunal Rules* and with any directions of the Tribunal with respect to the conduct of this proceeding.

SWORN BEFORE ME at the City of
Ottawa, on August 31, 2011.



Commissioner for Taking Affidavits



GARY SIMONSEN

This document that is being electronically submitted to the Tribunal is an electronic version of a paper document that has been signed by the affiant. The signed document in paper copy is available and will be produced if requested by the Tribunal.

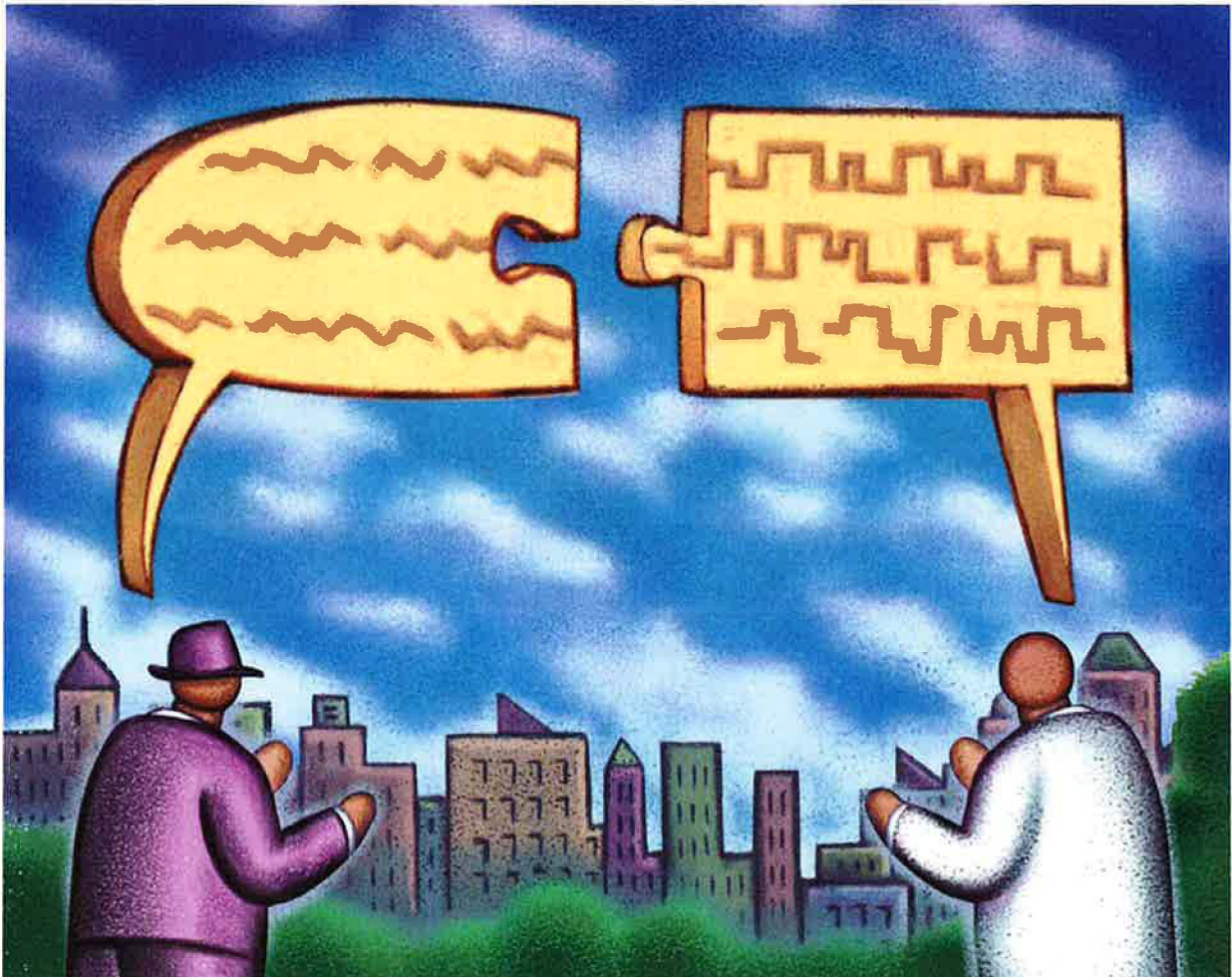
This is **Exhibit "A"** referred to in the
affidavit of **Gary Simonsen**
sworn before me, this **31st**
day of **August, 2011**



A Commissioner For Taking Affidavits

PERMISSION

VERSION 2



**Rules and guidelines for the sharing
of real estate information**

DEFINITIONS

In discussing Permission based technology, you should be familiar with the following definitions:

CREA Deep Link Framing (DLF)

Only CREA provides this technology option. It is designed to provide REALTORS with a very inexpensive Internet marketing tool using the current technology of **mls.ca** and ICX.CA for both display and searching. An approved CREA DLF includes all **mls.ca** or ICX.CA properties on framed pages. This is available to Boards, Associations, Brokers and REALTORS.

Franchisor Framer

A website that includes a particular Franchisor's Brokers' properties on framed and customized **mls.ca** pages (for example RE/MAX Ontario & Atlantic). This **mls.ca** feature continues to be available to Franchisors on a cost recovery basis, on request through helpdesk@crea.ca

IDX (Broker Reciprocity)

A reciprocal agreement among Brokers to allow the advertising of each other's listings on their web sites. They are known as IDX, or Internet Data Exchange.

CREA IDX

A CREA IDX is an alternative way for a group of Brokers to display their properties using framed pages from **mls.ca** or ICX.CA. Unless a Broker has made arrangements with one or more other Brokers, their properties are not included.

Linkback Framer

A website that includes a Broker's or REALTOR's own properties on framed **mls.ca** pages. This **mls.ca** feature is already available on request through helpdesk@crea.ca

VOW (Virtual Office Website)

This is a more sophisticated system of web display where consumers can access MLS® data, but requires the consumer to register first. This gives the REALTOR the ability to "capture" information about the consumer for follow-up. This is an Internet version of the traditional broker office.

CREA VOW

A CREA VOW is an alternative way for all of the property data from a particular Board to be displayed using framed pages from **mls.ca**, ICX.CA and IXN®. Unless a Board or Association opts out, all properties from all Brokers within that particular Board or Association are included in the CREA VOW. A CREA VOW can be set up with the property data of more than one Board if appropriate permissions have been set. Similar to the restrictions recommended for a Board supplied VOW service, some IXN® data will not be made available to the public. (e.g. REALTOR comments, commission information)



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Permission Based Technology includes web-based real estate services based on the digital display of information. This technology can include a Virtual Office Website (VOW), a Broker Reciprocity Agreement (IDX), or any technology that allows Boards, Associations and their members to choose what information will be permitted for display on websites other than their own.

This presentation deals with the technology options provided by The Canadian Real Estate Association for the implementation of three specific forms of Permission Based Technology - Deep Link Framing, VOWs and IDXs.

GETTING STARTED

Boards and Associations have a number of choices to make in deciding whether to implement Permission Based Technology.

1. Do we want to offer any of these services to our members?

As a concept, you should decide whether or not your Board or Association wants to make CREA Permission Based Technology available to members.

2. What options are there for providing these services?

Your Board and Association can decide to offer Permission Management Technology by using your own data and the services of a technology company, such as your MLS® provider. As of January 2004, for example, two Boards were offering an IDX solution to members by working with the Board's own technology provider. As an alternative, you can also decide to use the CREA option, which is based on the existing **mls.ca** and ICX.CA database. This means members would request a link to the **mls.ca** or ICX.CA database.

3. What options are there if I use CREA technology?

There are two options available in using CREA technology. Your Board or Association can administer it on your own, or CREA can do it for you on a cost recovery basis. As an example if a member wants to use the CREA DLF option, they would contact CREA, not the Board. Your Board or Association will be billed directly for this service.

4. Are there rules or guidelines to follow?

The MLS® and Technology Council, or MTC, has approved a policy of "no national rules or standards" for these type of services. Instead, the MTC has developed a series of suggested guidelines Boards or Associations may use in setting up their own IDX or VOW services (when provided directly by a Board or Association). These were published in the EDU Task Force Report in 2003, and have been prepared as reference material on the MTC page of www.realtorlink.ca.

There **ARE** rules and procedures to follow if you select the CREA options in providing Permission Management Technology because it involves the use of the **mls.ca** and ICX.CA database. These rules, which relate to such things such as trademarks and privacy, are included at the back of this booklet.

5. When do we have to decide what?

The CREA technology options for Permission Management Technology using **mls.ca** and ICX.CA will be available in the summer of 2004. By September 1st 2004, Boards and Associations will have to advise The Canadian Real Estate Association if they do NOT want members using the CREA services.

- Unless by September 1st your Board or Association specifically says no, or "opts out", you will be considered active and participating with CREA DLFs, VOWs and IDXs.
- If your Board or Association wants more time to discuss the issues, you can "opt out" by September 1st, but you can change that status at any time.
- If your Board or Association does nothing by September 1st, the "default" will apply – which means you are allowing members to use the CREA technology option. This is because Boards and Associations are considered as "Opt IN" as the default position for overall application of CREA Permission Management Technology.

To indicate your Board/Association option, use the CREA Permission Console that will be activated through www.realtorlink.ca.

6. What do these decisions mean?

Boards and Associations are considered as "IN" as the default position for overall application of CREA Permission Management Technology. This means unless you notify CREA to the contrary, your Board or Association is allowing the use of the CREA technology options for Deep Link Framing, VOWs and IDXs.

Your Board or Association can decide to participate in CREA Deep Link Framing (DLF) but "opt out" of the use of **mls.ca** and ICX.CA data for a virtual office website (VOW). However, the CREA system considers Boards and Associations as "IN" as the default position for this service. This means unless you "opt OUT" by using the Permissions Console, your Board or Association is allowing the use of the CREA technology options for VOWs.

Your Board or Association can decide to participate in CREA Deep Link Framing (DLF) but "opt out" of the use of **mls.ca** and ICX.CA data for broker reciprocity (IDX). The CREA system considers Boards and Associations as "IN" as the default position for this service. This means if you do not want members to have access to **mls.ca** or ICX.CA pages for an IDX, your Board or Association will have to "opt OUT" using the Permissions Console.

Even though the Board or Association has opted "IN" for IDX, an individual Broker can decide not to participate. An individual Broker is considered as "opting OUT" of this service unless they notify the Board or CREA they are participating in an IDX with other Brokers.

In all cases the Board or Broker's choice can be changed at any time through the CREA Permissions Console on www.realtorlink.ca.

7. How do members use the CREA Permission Management Technology?

To activate Deep Link Framing, a REALTOR or Broker would have to contact the Board to request activation. With the Board activation, the member will automatically link to the national map page. If the member wants to link to another page (regional or local map for example) they would then have to contact CREA for the designated URL, or web page address.

The Board can do the activation using staff and the Permissions Console, or they can direct the member to CREA for processing on a cost recovery basis. This same procedure applies for CREA VOW and CREA IDX options. Once the request has been activated, the Board receives a confirmation email that access has been approved.

IMPORTANT: By opting out of the Deep Link Framing option, your Board or Association is automatically opting out of CREA VOW or CREA IDX services, which means your members will also not have access to **mls.ca** or ICX.CA pages for these services.

8. What resources are available to help us decide?

The complete EDU Task Force Report is available on the MTC page of www.realtorlink.ca. It details the development of Permission Based Technology, and also compares the Canadian policies adopted by The Canadian Real Estate Association with those proposed in The United States.

If you are considering the use of the CREA technology options to deliver IDX, VOW or Deep Linking services to your members, CREA Marketing Director, Marc Lafrance, can answer any questions. Contact him at mlafrance@crea.ca.

If you have any competition law questions regarding the decision your Board or Association is taking in offering Permission Management Technology services, please contact CREA Legal Counsel, Steve Szentesi, at sszentesi@crea.ca.



9. Who does the enforcement?

The responsibility for enforcement is with the real estate Board or Association. If you are using the services of a technology company to provide IDX or VOW services, participants must follow the regulations as determined by the Board or Association. Boards and Associations using CREA Permission Management Technology are also responsible for enforcement of the rules and regulations as provided in this booklet.

USING THE CREA SOLUTION

The Canadian Real Estate Association can provide a cost-effective alternative for your Board and Association to offer Permission Management Technology to your members – whether it is for Deep Link Framing (DLF), CREA VOW or CREA IDX. You can choose any one, any combination, or all of these options.

There are specific rules governing the use of the **mls.ca** and ICX.CA database for the purpose of display as a DLF, or in a CREA VOW or CREA IDX. These are included in this booklet, starting on Page 9.

CREA can offer this option by maximizing the use of the existing **mls.ca** and ICX.CA database. There is no additional technology cost involved for participating Boards or Associations.

You will be responsible for management of the service, and the management system will be provided to you through www.realtorlink.ca. The Board or Association will be able to manage the “permissions” through this console on REALTOR Link™.

If you use the CREA option, we provide:

- **A user guide for the Permission Management Technology console.** This explains how Board and Association staff can manage the implementation of Deep Linking, VOW, and IDX options.
- **Material for members.** These are web pages you can link to your Board site, or print and distribute, that explain what’s involved in using the Deep Link Framing option, or implementing a CREA VOW or IDX option.
- **Help Desk support.** If any member or your staff have questions or problems with the display from the **mls.ca** or ICX.CA database, they can contact the CREA Help Desk from 8:00am - 8:00pm Eastern, Monday-Friday, for support.

Remember the CREA solution includes administration of the options.

Should your Board or Association not want to handle the individual requests for implementation or changes to CREA Deep Link Framing, VOW or IDX services, CREA will process them on a cost recovery basis. This means your members would contact CREA, rather than the Board or Association, to set up or change any of the Permission technology options.

WHAT THE CREA SOLUTION LOOKS LIKE

The rules governing the use of the **mls.ca** and ICX.CA database also govern what the page created for the member looks like. The presentation must adhere to any applicable provincial regulatory requirements.

In fact, there is not much difference in appearance between what a CREA generated Deep Link Frame, VOW, or IDX looks like. The major difference will be the frame design used by the participating member.

For example, here's a sample of a frame that would be allowed for a member participating in CREA's Deep Link Framing, VOW or IDX options using a page generated from the **mls.ca** or ICX.CA database.

Ron Simmons
Broker
Scrimshaw Realty Services Inc.

344 Slater Street, Suite 1600, Ottawa, ON K1R 7Y3 Tel: (613) 237-7111 Fax: (613) 234-2567

Advanced Search: Search By: MLS®

Home > Listing Search > Map

Canada

Ron Simmons
Sales Representative

344 Slater Street, Suite 1600, Ottawa, ON K1R 7Y3 Tel: (613) 237-7111 Fax: (613) 234-2567

Advanced Search: Search By: MLS®

Home > Listing Search > Listing Search Results > Property Details

MLS®: 573092 \$193,900

Fallingbrook South / Garden Way 1106
O-Gloucester, Cumberland
Ottawa-Carleton
Eastern B
Ontario

LOVELY 3 BEDRM TOWNHOUSE IN DESIRABLE NEIGHBOURHOOD. CERAMIC IN LARGE FOYER AS WELL AS PWR. ROOM. OPEN CONCEPT LIVING/DINING RM. CORNER GAS FFP BRIGHT KITCHEN W EATING AREA. PATIO DRS TO FENCED BACKYARD. LARGE MASTER BEDRM W WALKIN AND ACCESS TO BATHROOM. SPACIOUS SECONDARY BEDROOMS. FINISHED BASEMENT WITH REC ROOM AS WELL AS LAUNDRY/UTILITY FACILITIES.

Property Type: Townhouse
Category: Row Townhouse
House Style: 2 Storey
Age: Built in 1995
Bedrooms: 3
Bathrooms: 2
Fireplace: Central
A/C: Yes
Pools: Waterfront
Workshop: Fence
Fencing: Flat size
Land: Features: Natural gas, Central air conditioning
House Size: n/a
Lot Size: 20.01 x 106.95
Length / Width:

Main level
Living room: 14 ft. 9 in x 10 ft. 10 in
Dining room: 12 ft. 3 in x 11 ft. 2 in
Kitchen: 9 ft. 8 in x

MARIO CHARRON
613 650-8660
Email REALTOR
My Website
ROYAL LEPAGE
PERFORMANCE
REALTY
#107-250 CENTRUM
BLVD.
ORLEANS, Ontario
K1E 3J3
613-830-3350

The member can choose to have a national, provincial, regional or local map appear in the frame as an "entry" to their website. Using the same frame, here's what the display of a listing would look like.



WHAT A BOARD OR ASSOCIATION HAS TO DO

Once your Board or Association has decided on participation (opt in and opt out) individual members (brokers and REALTORS) can request use of the web pages from **mls.ca** and ICX.CA.

Setting up

To allow members to use the Deep Link Framing option, a Board or Association does not have to do anything. You will automatically be “activated” when CREA launches the service. If your Board or Association does NOT want to make this technology option available to your members at this time, you must use the Permissions Console on www.realtorlink.ca once it is active to change the permission options associated to you. This is an easy and convenient thing to do.

When this CREA service goes “live”, the operating status of your Board or Association becomes your responsibility. To do that, you can use the “Board Permission” option on the Permission Console.

Should your Board or Association prefer that CREA maintain your operating status for any or all CREA Permissions technology, this service is available on a cost recovery basis. For further details, please contact Marc Lafrance at mlafrance@crea.ca.

*IMPORTANT: By opting out of the Deep Link Framing option, your Board or Association is automatically opting out of CREA VOW or CREA IDX services, which means your members will also not have access to **mls.ca** or ICX.CA pages for these services.*

Letting members know

Communication material from CREA will be available to explain the services and technology options to your members. This material can be printed out, or will be available as a web page you can link to the “Members” side of your Board or Association website. This includes an explanation of the CREA Rules for the use of pages from **mls.ca** and ICX.CA.

Staff requirements

Board or Association staff will use the CREA Permission Based Technology Console available on www.realtorlink.ca to update the status, or to activate approved CREA DLF, CREA VOW or CREA IDX applications. The console is designed to make administration of permissions or authorization as easy and convenient as possible.

Using the PMT Console

Once your designated staff have signed onto www.realtorlink.ca, the updated CREA membership roster will be incorporated into the console. In other words, your staff will not have to go looking for broker office names or REALTOR contact information. As long as the membership information you provide in your upload is correct, then the reference information in the console will be as well.

CREA can also provide this ongoing service on behalf of your Board or Association on a cost recovery basis, which means members would contact CREA to make any changes, or to launch a new service.

A detailed User Guide for the CREA Permission Console will be distributed to all participating Boards and Associations prior to the launch of the service.

Of note to Boards already using a Deep Link to **mls.ca** or ICX.CA

Any Board or Association currently using the Deep Link Framing option to the **mls.ca** and ICX.CA websites will have to get a new URL from CREA. These old links will become inactive, so it is important that if you want to continue Deep Link Framing your Board or Association get a “refresher”.

WHAT A REALTOR HAS TO DO

Once your Board or Association has decided on participation (opt in and opt out) individual members (brokers and REALTORS) can request use of the web pages from **mls.ca** and ICX.CA.

The REALTOR or Broker requesting use of the CREA DLF/VOW/IDX technology options must have a website and a valid email address.

Design the frame

The participating REALTOR or Broker is responsible for hosting the site, and for designing and implementing the frame that is to be used for the display of pages from **mls.ca** and ICX.CA. These must be designed and displayed in accordance to the CREA rules and regulations published in this booklet that all participating Boards and Associations must adopt. These rules will also be posted on www.realtorlink.ca for member reference.

Here's an example of a CREA Permission display with a horizontal frame

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Residential Listings Commercial Listings Why use a REALTOR My Real Estate Board Chamber of Commerce Social Media

Advanced Search: Community REALTOR Search Office Search Search By: MLS®

Home > Listing Search > Map

Canada > Ontario > Eastern B > Ottawa-Carleton

- ☐ Select All
- ☐ B-North Lanark
- ☐ C-South Lanark
- ☐ D-West Leeds & Grenville
- ☐ E-East Leeds & Grenville
- ☐ F-West Stormont, Dundas & Glengarry
- ☐ G-East Stormont, Dundas & Glengarry
- ☐ H-Prescott & Russell
- ☐ I-Osgoode
- ☐ J-Rideau
- ☐ K-Goulbourn
- ☐ L-West Carleton

Map showing Ottawa-Carleton regions: 1 Far West, 2 West, 3 Downtown Core, 4 East, 5 South, 6 Rockland, 7 Orleans, 8 Casselman, 9 Metcalfe, 10 Winchester, 11 Kemptville, 12 Marlborough, 13 Carleton Place, 14 St. Lawrence River, 15 Ottawa River, 16 Quebec, 17 Kanata, 18 Nepean, 19 Scottsville, 20 Stittsville, 21 Kemptville, 22 Winchester, 23 Marlborough, 24 Carleton Place, 25 St. Lawrence River, 26 Ottawa River, 27 Quebec, 28 Kanata, 29 Nepean, 30 Scottsville, 31 Stittsville, 32 Kemptville, 33 Winchester, 34 Marlborough, 35 Carleton Place, 36 St. Lawrence River, 37 Ottawa River, 38 Quebec, 39 Kanata, 40 Nepean, 41 Scottsville, 42 Stittsville, 43 Kemptville, 44 Winchester, 45 Marlborough, 46 Carleton Place, 47 St. Lawrence River, 48 Ottawa River, 49 Quebec, 50 Kanata, 51 Nepean, 52 Scottsville, 53 Stittsville, 54 Kemptville, 55 Winchester, 56 Marlborough, 57 Carleton Place, 58 St. Lawrence River, 59 Ottawa River, 60 Quebec, 61 Kanata, 62 Nepean, 63 Scottsville, 64 Stittsville, 65 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Requesting implementation for CREA DLF or CREA VOW

Once the Broker or REALTOR has met these requirements, they would contact either the Board/Association, or CREA, to request a link to the **mls.ca** or ICX.CA pages. This request would be processed through the Permission console. If all conditions have been met, an email confirmation with the URL required for the framing will be sent to the Board or Association. It will be up to the Board or Association to forward that email to the Broker or REALTOR. If CREA is providing this service to a Board, the email will be sent to the Board or Association and to the member making the request.

Requesting implementation for CREA IDX

Please note the request for participation in a CREA IDX can ONLY come from a licenced Broker. Once the Broker has met the technical requirements, they would contact either the Board/Association, or CREA, to request a link to the **mls.ca** or ICX.CA pages. This request would be processed through the Permission console. If all conditions have been met, an email confirmation with the URL required for the framing will be sent to the Board or Association and to the Brokers involved in the reciprocity program. If CREA is providing this service to a Board, the email will also be sent to the Board or Association and the Brokers involved.

Please also note a Broker can be an active participant in more than one reciprocity program.

Existing Deep Linkers

Some members have been using deep link framing technology to display pages from **mls.ca** and ICX.CA. They will have to contact CREA for a proper URL to make the framing work. Their existing link will become inactive once the CREA Permission Technology options have been launched. This does NOT affect members who may have a link to display their own listings on their personal website.

PERMISSIONS MANAGEMENT RULES

Boards and Associations using the Permissions Management facility must adopt and enforce the standard Rules respecting the use of *mls.ca* and ICX.CA pages and database for CREA VOW, CREA IDX and CREA Deep Link Framing. The Rules, as may be amended from time to time, are as follows:

Section 1: Definitions

Broker means the REALTOR designated as the representative of the brokerage, either for the purposes of the applicable provincial real estate licensing legislation or with regard to the relationship between the brokerage and the local real estate board/association.

CREA Deep Link Framing means a program which enables DLF Participants to frame on their Internet websites ("DLFs") public listing data of their own and of other DLF Participants as supplied by the *mls.ca* and ICX.CA database in accordance with these Rules.

CREA IDX Program means a program which enables IDX Participants to frame on their CREA IDX Internet websites ("IDXs") public listing data of their own and of other IDX Participants as supplied by the *mls.ca* and ICX.CA database in accordance with these Rules.

CREA VOW Program means a program which enables VOW Participants to frame on their CREA VOW Internet websites ("VOWs") public and IXN® data of other VOW Participants as supplied by *mls.ca* and ICX.CA database in accordance with these rules and through which consumers receive real estate brokerage services, including the opportunity to search for MLS® and ICX data available through *mls.ca* and ICX.CA subject to the Broker Participant's overview, supervision and responsibility.

DLF Participant means a broker member of the Board/Association that has not advised the Board/Association in writing that they do not wish to take part in the CREA DLF Program or a non-principal broker or salesperson licensed with a participating broker who has been authorized by that broker to establish a DLF.

IDX Data means MLS® or ICX data, which is made available by CREA through the *mls.ca* and ICX.CA pages and database to IDX Participants from time to time for display on IDXs.

IDX Participant means a Broker member of the Board/Association for whom the Broker/Owner of the website has advised the Board/Association or CREA in writing that they do wish to participate in a specific IDX.

VOW Data means MLS® or ICX data, including the IXN® data fields, which is made available by CREA through the *mls.ca* and ICX.CA database to VOW Participants for display on VOWs.

VOW Participant means a broker member of the Board/Association that has not advised the Board/Association in writing that they do not wish to take part in the CREA VOW Program or a non-principal broker or salesperson licensed with a participating broker who has been authorized by that broker to establish a VOW.

Section 2: Permissions Management - General

All VOW, IDX and DLF Participants must adhere to the following Rules, all other MLS® rules and regulations, guidelines and policies that may be adopted by the Board/Association or CREA from time to time, and to all applicable provincial or federal legislation or regulation.

2.1 General Permissions Management Rules

2.1.1 Ownership.

- a) The Canadian Real Estate Association (CREA) is the owner of the *mls.ca* and ICX.CA database;



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- b) All data and other content on the database is owned by CREA, the respective Board/Association and/or the listing brokerage; and
 - c) No copyright ownership of the **mls.ca** and ICX.CA database or of any data or other content on the database flows to the Participant.

2.1.2 Alteration of Database.

Participants shall not alter, modify, manipulate, scrape, store or obscure in any way, the **mls.ca** and ICX.CA database or web pages, any data or other content on the database, or any disclaimers or notices.

2.1.3 Remedy For Failure To Comply.

If a Participant is in violation of any rule, regulation, or policy of the Board/Association or CREA relating to the operation of any of the Permissions Management facilities, the Board may, in addition to all other remedies available, require the Participant to immediately cease and close the operation of the Participant's DLF, VOW or IDX, as the case may be.

2.1.4 Authorization.

Participants' use of listings of other Participants on any of the Permission Management facilities is subject to the consent of such other Participants.

- (a) VOW and DLF Consents-Participants' consent for display of their listings by other Participants on VOWs and DLFs pursuant to these rules is presumed unless a VOW or DLF Participant independently and affirmatively withholds that consent ("opts out"). Brokers may independently "opt out" of the VOWs or DLFs of all Participants on a blanket basis ("blanket opt out").. "Blanket opting out" of a VOW or DLF can be accomplished by a Broker so notifying either the Board/Association or, at the option of the Board/Association, CREA. CREA or the Board/Association shall cause the listings of the opting out broker not to be displayed on the **mls.ca** and ICX.CA pages produced for the VOW or DLF of other Participants.
- (b) IDX Consents -Brokers are presumed not to consent to their listings being displayed on the IDXs of IDX Participants unless they have affirmatively opted in through the owner of the IDX by advising the Board/Association or CREA in writing that they wish to participate in a specific IDX.
- (c) If any Broker opts out of a VOW or DLF, or fails to opt in to an IDX, neither the broker nor any salespeople licensed with that brokerage are permitted to participate in the VOW, DLF or IDX, as the case may be.
- (d) Any Broker who opts out of DLF is not permitted to participate in an IDX or a VOW.

2.1.5 Content of Frames

Frames created by a DLF, VOW, or IDX Participant:

- (a) must not display any franchise, Broker or corporate trademarks or logos when the **mls.ca** and ICX.CA result set is displayed, and
- (b) must display all contact information which is required to be shown in advertising by provincial law/regulation or the REALTOR Code of Ethics.
- (c) The use of frames for **mls.ca** and ICX.CA pages is subject to the Rules and Regulations, guidelines and policies of the Board/Association and CREA as amended from time to time.

2.1.6 Display of **mls.ca and ICX.CA Pages**

Pages created for use on a Permissions Management facility (i.e. DLF, IDX or VOW) must only be displayed on the particular Permissions Management facility for which they were created and cannot be used for any other Permissions Management facility.

Section 3: CREA DLF Program Rules

For Deep Linking And Framing *mls.ca* and ICX.CA Pages For Websites Other Than IDX and VOWs

3.1 DLF Participants may cause to appear on their Internet websites within frames of their own design:

- The ***mls.ca*** and ICX.CA pages containing the listings from this Board/Association;
- The ***mls.ca*** and ICX.CA pages containing the listings of other Boards/Associations that permit this type of deep linking and framing of ***mls.ca*** /ICX.CA.

3.2 Operation of the Deep Linking and Framing facility is subject to these rules, and in particular, Section 2 above.

Section 4: CREA VOW Program Rules

4.1 VOW Participants may provide brokerage services via a VOW that include making VOW data available from ***mls.ca*** and ICX.CA , but only to consumers (hereinafter "Registrants") with whom the VOW Participants have first established relationships, including completion of all actions and/or forms respecting agency disclosure required by provincial law or regulation in connection with providing real estate brokerage services to clients and customers.

4.2 VOW Participants must obtain the name and valid e-mail address of each Registrant.

4.3 VOW Participants must send an e-mail to any Registrant confirming that the Registrant has agreed to the VOW's Terms of Use.

4.4 VOW Participants can provide access to their VOW only after a Registrant's email address is verified as valid and the Registrant's agreement to the VOW's Terms of Use is confirmed.

4.5 VOW Participant's Terms of Use shall include the following terms.

- a) The Registrant acknowledges that these Terms of Use do not create an agency relationship with the VOW Participant;
- b) That the VOW data obtained from the VOW is only for the Registrant's personal, non-commercial use;
- c) That the Registrant has a bona fide interest in the purchase, sale or lease of real estate of the type being offered through the VOW;
- d) That the Registrant will not copy, redistribute or retransmit any of the VOW data or information provided; and
- e) That the Registrant acknowledges CREA's ownership of and the validity of the copyright in the ***mls.ca*** and ICX.CA database.

The VOW Participant's Terms of Use may also include other provisions determined by the VOW Participant.

4.6 VOW Participants' Terms of Use shall not impose a financial obligation on a Registrant. Financial obligations, if any, must be established separately from the VOW Participants' Terms of Use, must be prominently labeled, and may not be accepted solely by a "mouse click".



4.7 VOW Participants' Terms of Use shall not create any representation agreement between a Registrant and the VOW Participant. Representation agreements, if any, must be established separately from the VOW Participants' Terms of Use, must be prominently labeled, and may not be accepted solely by a "mouse click".

4.8 The Registrant must supply a user name and a password, the combination of which must be different from those of all other Registrants of the VOW, before being permitted to search and view VOW data via the VOW. The user name and password may be established by the Registrant or may be supplied by the Participant, at the option of the VOW Participant.

4.9 Participants' VOWs must protect VOW data from misappropriation by employing reasonable efforts to monitor for and prevent "scraping" and other unauthorized accessing, reproduction or use of the **mls.ca**/ICX.CA database or the VOW data.

4.10 Listings or property addresses of sellers who have directed their listing brokers to withhold their listing or their property address from display on the Internet (including, but not limited to, publicly-accessible websites or VOW's) shall not be accessible to Registrants. This does not preclude listing brokers from displaying on their VOW or their other website(s) the listing or property address of consenting sellers.

4.11 VOW Participants must not alter, modify, manipulate, scrape, store or obscure the VOW data (or any disclaimers or notices therein) in any way.

4.12 No portion of the **mls.ca** and ICX.CA database shall be distributed, provided to or made accessible to any person for the purpose of operating a VOW except as provided in these rules.

4.13 VOWs must display the VOW Participant's privacy policy informing Registrants how information they provide may be collected, used and disclosed, in accordance with applicable privacy legislation.

4.14 VOW Participants shall not provide the identity of Registrants to any other entity for compensation except where:

- a) The VOW Participant's residential real estate brokerage activities principally consist of listing or selling properties;
- b) Registrants are seeking property in a price range or in a location for which the VOW Participant ordinarily does not provide real estate brokerage services; and
- c) The number of Registrant identities provided is insubstantial, or the corresponding revenue generated, is an insubstantial portion of the VOW Participant's real estate brokerage activities.
- d) For purposes of this rule, "selling" does not include making referrals of prospective purchasers to other real estate brokers and "listing" does not include making referrals of prospective sellers to other real estate brokers.

4.15 VOW Participants must notify the Board/Association of their intention to create a VOW, and must make their VOW directly accessible to the Board/Association, CREA and other members or their duly authorized representatives for purposes of monitoring/ensuring compliance with applicable rules and policies.

4.16 Participants' VOWs may include other appropriate disclaimers necessary or advisable to protect the VOW Participant and/or the Board/ Association and CREA from liability.

4.17 Registrants' passwords shall be valid no longer than 30 days, after which such passwords must be reconfirmed or changed.

4.18 Non-principal brokers and sales licensees affiliated with VOW Participants may operate VOWs subject to their VOW Participant's consent and control. Both the VOW Participant and the non-principal broker or sales licensee operating the VOW shall be accountable under these rules with respect to the operation of any such VOW.

Section 5: CREA IDX Program Rules

5.1 The IDX Data or any portion thereof may not be displayed on any Internet website except an IDX.

5.2 Within fourteen days after being requested by the Board/Association or CREA to do so, an IDX Participant must make such changes to its IDX as required by the Board/Association to resolve any violation of the IDX Rules or any other regulations, guidelines and policies.

5.3 IDX Participants must not permit any portion of the IDX Data to be used or provided to any person or corporation for any purpose other than those expressly provided for in the MLS® rules and regulations, guidelines and policies of the Board/Association or CREA.

5.4 Listings from the Board or Association shall only be excluded from display on Participant's VOW's based on objective criteria, e.g. type of property, listed price, and geographical location.



**Any questions or comments
about the services or
products CREA provides?
You can contact us on-line at
info@crea.ca.**



THE COMPETITION TRIBUNAL
THE COMMISSIONER OF COMPETITION
Applicant
AND
THE TORONTO REAL ESTATE BOARD
Respondent

AFFIDAVIT OF GARY SIMONSEN
(Application for Leave to Intervene by CREA)

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