

**eREALTY, INC.'s SUPPLEMENTAL STATEMENT ON THE INTERNET DELIVERY  
OF MLS DATA.**

eRealty, Inc. submits the following Statement to the Federal Trade Commission (FTC) as a further supplement to the oral and written comments of eRealty's President, Mr. Russell Capper, before the FTC's Public Workshop on E-Commerce on October 10, 2002.

As a preliminary matter, eRealty attaches to this Statement, a copy of the October 22, 2002 version of a proposed Policy on Electronic Data Display ("EDD Policy") recommended to the National Association of Realtors® (NAR) Board of Directors by the NAR's Internet Marketing Work Group. This latest proposed EDD Policy supercedes the Work Group's more restrictive May, 2002 Proposal.

Before this latest proposed EDD Policy is considered by the NAR Board of Directors on November 11, 2002, the Policy will first be reviewed by the NAR Multiple Listing Policy Committee and the NAR Executive Committee. Either of these Committees could propose amendments to the EDD Policy that could be make the Policy more or less restrictive than that proposed by the Work Group.

eRealty submits that the Internet delivery of MLS Data to homebuyers has the potential to dramatically increase the efficiency of the real estate brokerage industry by improving agent productivity. Increased agent productivity can, in turn, result in lower brokerage service costs to consumers.

eRealty further submits that the Internet delivery of MLS Data to homebuyers has the potential to dramatically improve the quality and quantity of information provided to the consumer when making this very important purchase decision. Having all the data can result in a more efficient transaction and a more satisfied consumer.

**1. New Entrants Like eRealty Will Adopt Web Based Technology More Quickly Than Traditional Firms.**

eRealty is a new entrant into the real estate brokerage business, having commenced operations in 1998. As its name implies, eRealty has designed a business model that relies heavily on the application of web based technology to the traditional practice of real estate brokerage. Unencumbered by an entrenched "legacy" business model that must be redesigned, and a team of existing sale associates that must be retrained, new entrants, like eRealty, are able to adopt a web based business model much more quickly than older and more established firms. New entrants needing to capture market share are also more likely to pass efficiency benefits on to consumers in the form of lower prices.

**2. Web Based Technology Increases Agent Productivity.**

The hallmark of eRealty's web based business model is the use of password protected "Intranet" web site at which registered customers may conduct their own searches of MLS Data relating to properties available for sale. eRealty's htranet is known generically in the real estate business as a "Virtual Office Website" or "VOW".

By empowering homebuyers to conduct their own market research using Web accessible MLS Data, VOWs allow real estate agents to concentrate on contract negotiations and coordination of the myriad tasks that must be accomplished to consummate a real estate transaction. Agents who are freed from the task of fulfilling customer requests for MLS Data can consummate more transactions in a shorter period of time.

As the efficiency enhancing potential of VOWs becomes evident, more and more brokerage firms, both new entrants and traditional firms, are implementing VOWs as part of their business practice.

### **3. Web Enhanced Agent Productivity Allows New Entrants To Earn Profits While Charging Lower Prices.**

Freed of the overhead associated with a "legacy" business model, eRealty, and other firms like it, are able profitably to pass on the efficiencies realized from increased agent productivity to consumers in the form of lower prices. For example, eRealty charges commission rates to sellers that are more than 1/3 lower than prevailing rates charged by traditional firms. eRealty also offers buyers a cash rebate of 1% of the sale price of the home where permitted by law.

More entrenched firms may embrace the same technology, but are less likely to pass on any efficiency gains to consumers in the form of lower prices. Traditional firms are more likely to retain any savings from increased agent efficiency to cover the higher overhead costs of their legacy business models, and the potential losses of market share to firms like eRealty.

### **4. The FTC Should Encourage NAR To Adopt Rules That Do Not Discriminate Against Internet MLS Data Delivery.**

Even the less restrictive EDD Policy now being considered by NAR still places limits on the use of the Internet to deliver MLS Data to homebuyers that are not placed on the "offline" delivery of the same Data. As the federal district court held in Austin Board of Realtors, et al. v. eRealty, Inc. (order attached), MLS Rules that draw such distinctions are likely violations of the Sherman Act.

For the foregoing reasons, the FTC should encourage NAR to promote, rather than retard, the application of web based technology to the real brokerage business. Such a statement of support from the FTC would not simply benefit eRealty. Rather it would benefit all brokerage firms seeking to maximize the efficiency enhancing potential of web based technology, and, most importantly, American consumers who will enjoy the benefits of reduced real estate transaction costs.