



July 4, 2019

Rose Sicoli
President, Brantford Regional Real Estate Association Inc.
106 George Street
Brantford, Ontario
N3T 2Y4

Dear Rose,

RE: Fraudulent Listings

We share your concern over fraudulent listings that use our members' listing content without authorization. I want to assure you that CREA takes complaints about misuse of listing content seriously, and we always take steps to try and resolve the issue ourselves or assist the member who's listing has been used without their permission.

You make a great point about educating our members and the public about misuse of listing content. CREA's legal department just wrote a blog post for the CREA Café explaining why listing content should not be copied from REALTOR.ca, which is scheduled to be published later this summer. We will also consider publishing something in the September News2Me.

With that said, I'd like to take this opportunity to explain what measures CREA has put in place to protect our members' listing content on REALTOR.ca and what steps we take when we are notified about a fraudulent advertisement.

First, it is important to note that CREA uses very sophisticated software to prevent listing content from being scraped from REALTOR.ca. This software prevents programs from accessing REALTOR.ca and downloading listing content in bulk. Unfortunately, there is no software that we could use to prevent people from manually copying individual listings. This is what appears to be happening when people copy a listing and then use it as the basis for a fraudulent ad on another website. In these cases, we depend on our members to bring unauthorized use of listing content to our attention.

When CREA is notified of a fraudulent listing the legal department investigates to determine the source of the original listing content. If the listing content originates from REALTOR.ca or a DDF® website, then CREA contacts the poster of the fraudulent listing with a cease and desist notice. If the poster of the ad does not remove the ad within 24 to 48 hours, then the legal department will contact the website owner and ask for the fraudulent listing to be removed.



The legal department has done this a number of times and has been successful in getting several fraudulent ads deleted.

When the listing content used in a fraudulent ad comes from a Board/Association IDX feed or a member's website that is not populated using DDF®, then CREA is not the proper entity to send a cease and desist notice. In these situations CREA's legal department provides template text for the Board/Association or member to use to demand that the ad be deleted. CREA usually recommends that the listing brokerage report the fraud as well. More information about reporting fraud can be found here: <http://www.antifraudcentre-centreantifraude.ca/index-eng.htm>.

I know that many other Boards and Associations will likely read this letter so we have included the template cease and desist text as an attachment, as well as information on how to frame a complaint to the website hosting the ad in order to request that a fraudulent listing be removed.

Thank you for your suggestion of providing education on this pressing subject. If you have any questions or if you receive complaints about more fraudulent listings you can bring them to the attention of CREA's legal department.

Regards,

Jason Stephen
CREA President, 2019



TEMPLATE CEASE AND DESIST TEXT

Cease and Desist notice to ad poster:

To Whom It May Concern,

It has come to my attention that you have been using listing content that does not belong to you to post ads on [insert website url]. This use of listing content that does not belong to you is unauthorized and must cease.

It appears you have posted an ad for a rental property that is actually a house listed for sale: [insert url]. Listing brokerages own the copyright over their listings, which includes the compilation of listing information and the property pictures. Any use of a brokerage's listing content without their consent could amount to copyright infringement. Not only is this use of the listing content unauthorized but it is also misleading as it claims the property is for rent when it is not.

Please remove this unauthorized listing content from immediately. If I do not receive a satisfactory response within 24 hours I will be contacting the website where this ad is posted directly.

Thank you for your anticipated cooperation.

If after 24 or 48 hours the ad hasn't been removed, then try contacting the website directly. Many websites have terms of use that apply to all ads and usually a fraudulent ad can be framed as a breach of the website terms of use. See for example a template email that could be used when contacting Craig's List regarding a fraudulent listing.

To whom it may concern,

I am contacting you regarding a fraudulent ad on your website: [insert link]. I have already contacted the posted and requested that the ad be removed. As the ad has not been deleted, I'm hoping you can remove the ad as it breaches the Craig's List terms of use.

This ad uses listing content that has been copied from my brokerage without authorization. Listing brokerages own the copyright over their listings, which includes the compilation of listing information and the property pictures. Any use of a brokerage's listing content without their consent amounts to copyright infringement.



The ad also is misleading as it claims the property is for rent when it is currently listed for sale. The unauthorized use of copyright protected listing content plus the misleading nature of the ad amounts to a breach of the Craig's List Terms of Use.

The Craig's List Terms of Use state that posters must agree "not to post content that is prohibited by any of CL's policies or rules referenced above ("Prohibited Content)". Craig's List prohibited list includes ads that are false, misleading, deceptive, or fraudulent content. It also includes content that violates the law or legal rights of others.

Posting a fraudulent ad that infringes on my brokerage's copyright is Prohibited Content that should not be permitted on your website. Please take measures to remove this ad from your website.