



The information provided in this [email/memo/letter](#) is for informational purposes only. Triad MLS is not providing legal advice. If you have any questions about the DMCA, you should contact your attorney to obtain advice.

### **The DMCA**

The [Digital Millennium Copyright Act](#) (“DMCA”) is legislation that amends and updates U.S. Copyright law to address advances in information technology, including the internet.

### **Safe Harbor under the DMCA**

The DMCA provides a company a safe harbor against unknowingly publishing copyright protected works, like a photograph on its website, without authorization. Under the DMCA, online service providers (“OSPs”) can seek protection from copyright infringement claims via the safe harbor provisions ([17 USC 512](#)). An OSP is an entity that provides connections for digital communications between users, which can include allowing users to generate and post content (17 USC 512 (k)(1)).

If infringing content is found on an OSP’s website and the OSP meets the DMCA safe harbor requirements, the OSP can mitigate liability for displaying infringing content. The OSP safe harbor protections include limitations on liability from monetary damages and lawsuits based on allegedly infringing content on their website.

### **Eligibility for Safe Harbor**

To be eligible for DMCA safe harbor protections, the OSP must follow certain procedural steps, including:

- (1) Registration of a DMCA agent with the Copyright Office, which includes completing the required [form](#) and paying the [filing fee](#). Once processed, your DMCA agent will be listed in the [Copyright Office Directory of Agents](#).
- (2) Display the DMCA agent on the OSP’s website, best practice is to also display the DMCA notice requirements. The registered DMCA agent becomes the OSP’s point of contact to receive notifications of alleged infringement and must follow the notice and take-down procedures outlined in the DMCA for the OSP to be eligible for the safe harbor. Failure to follow the timelines in the DMCA can result in loss of the safe harbor protections.

For more information on the DMCA, please refer to the [U.S. Copyright website](#).

NAR Also provides some resources that you may find helpful.

[Law & Policy: Do You Understand Online Copyright Law?](#) article

[Safeguarding your Website from Copyright Infringement Claims](#) presentation deck

[Copyright Infringement Safe Harbor](#) video

[Listing Photo Copyright Issues](#) video