

GAC Advice Response Form for Applicants



The Government Advisory Committee (GAC) has issued advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section IV, Annex I, and Annex II of the [GAC Beijing Communiqué](#) for the full list of advice on individual strings, categories of strings, and strings that may warrant further GAC consideration.

Respondents should use this form to ensure their responses are appropriately tracked and routed to the ICANN Board for their consideration. Complete this form and submit it as an attachment to the ICANN Customer Service Center via your [CSC Portal](#) with the Subject, “[Application ID] Response to GAC Advice” (for example “1-111-11111 Response to GAC Advice”). All GAC Advice Responses must be received no later than 23:59:59 UTC on 10-May-2013.

Respondent:

Applicant Name	Real Estate Domains LLC
Applicant ID	1-907-41079
Applied for TLD (string)	.REALTOR

Response:

GAC Communiqué –Beijing, People’s Republic of China

- Under Annex 1, Category 1, the GAC advises 5 safeguards to apply to particular categories of new gTLD’s.
- The GAC labels “Professional Services” as one such category.
- The GAC has named the string .REALTOR within the Professional Services category.

On behalf of Real Estate Domains LLC, the new gTLD applicant for .REALTOR (Applicant Number 1-907-41079), we are pleased to provide our response to the GAC advice received by the ICANN Board. Please find below the advice excerpts from the GAC with our response immediately following:

GAC Advice: Strings that are linked to regulated or professional sectors should operate in a way that is consistent with applicable laws. These strings are likely to invoke a level of implied trust from consumers, and carry higher levels of risk associated with consumer harm.

Our Response: We agree with this GAC advice in principle. Founded in 1908, The National Association of REALTORS® (NAR), The Voice for Real Estate®, is the

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world's largest professional association, representing greater than one million members belonging to approximately 1,400 state and local associations/boards. An acknowledged leader in the real estate field NAR has worked to develop standards for efficient, effective, and ethical real estate business practices since well before there were any state/provincial or national regulatory authorities. The term REALTOR® implies a level of trust due to efforts led by NAR representing the collective interests of the public and of each of its REALTOR® members.

The term "REALTOR®", invented by NAR, is a registered collective membership mark of the National Association of REALTORS® that identifies a real estate professional who is a member of the NAR and pledges to abide by its strict Code of Ethics. The term REALTOR® is registered as a collective membership mark by NAR with the United States Patent and Trademark Office. As NAR has stepped up on the world stage both directly and through relationships with other national organizations of real estate professionals, NAR has also registered REALTOR for that or other services in the trademark offices of an additional 45 nations and the European Community.

GAC Advice: Registry acceptable use policy must require registrants to comply with all applicable laws including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.

Our Response: We agree in principle. Registry acceptable use policy will require registrants to comply with all applicable laws.

GAC Advice: Registry operators will require registrars at the time of registration to notify registrants of the acceptable use policy.

Our Response: We agree. Registrars accredited in .REALTOR will be required in the registry/registrar agreement to notify registrants of the .REALTOR acceptable use policy, as those policies may evolve over time, at the time of registration.

GAC Advice: Registry Operators will require registrants who collect and maintain sensitive health and financial data implement reasonable and

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appropriate security measures commensurate with the offering of those services, as defined by applicable law and recognized industry standards.

Our Response: We agree in principle. All registrants of .REALTOR domain names who collect and maintain sensitive financial data will be required to implement reasonable and appropriate security measures commensurate with the risk associated with the offering of those services, as defined by law and/or recognized industry standards, as applicable.

GAC Advice: Establish a working relationship with the relevant regulatory, or industry self-regulatory, body including developing a strategy to mitigate as much as possible the risks of fraudulent, and other illegal, activities.

Our Response: We agree. NAR is a globally recognized industry self-regulatory organization for REALTORS® including administration of a strict Code of Ethics and Professional Standards which has served to mitigate risks to the public for 100 years. NAR's scope includes working relationships with governmental or non-governmental bodies in numerous countries throughout the world.

GAC Advice: Registrants must be required by the registry operator to provide a single point-of-contact for the notification of complaints or reports of registration abuse as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.

Our Response: We agree. As provided for in our response to Question 28: "If you believe that a .REALTOR domain name is or has been involved in abusive conduct, please contact our Abuse Prevention Manager at <email address> or <written address> with your complaint."

GAC Advice: "In addition, some of the above strings may require further targeted safeguards, to address specific risks, and to bring registry policies in line with arrangements in place offline. In particular, a limited subset of the above strings are associated with market sectors which have clear and/or regulated entry requirements (such as: financial, gambling, professional services, environmental, health and fitness, corporate identifiers, and charity) in

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multiple jurisdictions, and the additional safeguards below should apply to some of the strings in those sectors”.

Our response: We agree. For example, one of the criteria commonly applied in determining eligibility for REALTOR® membership in NAR is that the applicant have a current, valid license or certification from the relevant government authority. This approach preserves the integrity of the profession by mirroring as a part of the qualification prerequisites to be a REALTOR®, the business entry requirements put in place by the applicable governmental regulatory body. If not in fact, then at least in effect the offline requirements of the governmental regulatory body are incorporated into the registration process of .REALTOR domain names.

GAC Advice: At the time of registration the registry operator must verify and validate the registrants’ authorizations, charters, licenses and/or other credentials for participation.

Our Response: We agree. At time of registration registry operator will verify with NAR that the domain name registrant is a member of NAR or licensed to use the term REALTOR®. As stated in response to Question 18: ““only NAR, REALTORS®, NAR members, NAR affiliates (including affiliated institutes, societies and councils), NAR licensees and parties otherwise in a contractual relationship with NAR relating to use of the REALTOR® mark will be permitted registration in .REALTOR.” Such status will be verified at time of registration.

GAC Advice: In case of doubt with regard to authenticity of licenses or credentials, registry operator should consult with relevant national supervisory authorities, or other equivalents.

Our Response: We agree. Registry operator will consult with NAR in case of doubt with regard to authenticity of any licensing credentials.

GAC Advice: Registry operator must conduct periodic, post-registration checks with the above requirements in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.

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Our Response: We agree. Registry operator will conduct periodic, post-registration checks against the criteria originally permitting registration. As stated in response to Question 18: “To the extent a registrant/REALTOR® lapses in membership as a REALTOR®, or a registrant/NAR member ceases to be an NAR member, or a registrant/NAR affiliate ceases to be an NAR affiliate, or a registrant/NAR licensee ceases to be an NAR licensee, or a registrant/NAR contracted-party ceases to be an NAR contracted party, registration of the affected domain will have to be withdrawn.”

With regards to REALTORS® conducting their activities in the interests of the consumers they serve, the very first Article of the NAR Code of Ethics and Standards of Practice states, “When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly”.

GAC Advice, Restricted Access: As an exception to the general rule that the gTLD domain name space is operated in an open manner registration may be restricted, in particular for strings mentioned under Category 1. In these cases, the registration restrictions should be appropriate for the types of risks associated with the TLD. The registry operator should administer access in these kinds of registries in a transparent way that does not give an undue preference to any registrars or registrants, including itself, and shall not subject registrars to an undue disadvantage.

Our Response: We agree. As an exception to the general rule, and as stated in response to Question 18, “Consistent with NAR’s mission/purpose for the .REALTOR gTLD, NAR will determine, in its sole discretion, who may register domains in .REALTOR, and only NAR, REALTORS®, NAR members, NAR affiliates (including affiliated institutes, societies and councils), NAR licensees and parties otherwise in a contractual relationship with NAR relating to use of the REALTOR® mark will be permitted such registration.” NAR’s knowledge of the real estate business and the ethical and legal conduct of that business makes NAR the most

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suitable entity with both the experience and the expertise to determine the registration restrictions that should be appropriate for the types of risks associated with the .REALTOR TLD.

We further agree the registry operator should administer access to .REALTOR in a transparent way that does not give an undue preference to any registrars or registrants, including itself, and shall not subject registrars to an undue disadvantage. For example, NAR maintains non-discriminatory standards for membership such that any authorized real estate practitioner willing to commit to the enhanced standards of ethical conduct required of a REALTOR® will be eligible for membership in NAR thus eligible for registration of a .REALTOR domain name.

GAC Advice, Exclusive Access: For strings representing generic terms, exclusive registry access should serve a public interest goal.

Our Response: Our application for .REALTOR, on behalf of the National Association of REALTORS® (NAR), does not represent a generic term. REALTOR® is a registered collective membership mark of NAR that identifies a real estate professional who is a member of the NAR and abides by its strict Code of Ethics. NAR's intellectual property rights for the term REALTOR® are recognized by the USPTO, an additional 45 nations and the European Community. While in this context REALTOR® is not a generic term, extending NAR's longstanding position as the acknowledged leader in developing standards for efficient, effective, and ethical real estate business practices on behalf of REALTORS® to .REALTOR serves a public interest goal.

The GAC's Six safeguards for all new gTLDs:

GAC Advice, WHOIS verification and checks: Registry Operators will conduct checks on a statistically significant basis to identify registrations in its gTLD with deliberately false, inaccurate, or incomplete WHOIS data at least twice per year. Registry operators will weight the sample towards registrars with the highest percentages of deliberately false, inaccurate or incomplete records in the previous checks. Registry operators will notify the relevant registrar of any inaccurate or incomplete records identified during the checks, triggering the

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registrar's obligation to solicit accurate and complete information from the registrant.

Our Response: We agree.

GAC Advice, Mitigating abusive activity: Registry operators will ensure that terms of use for registrants include prohibitions against the distribution of malware, operation of botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law.

Our Response: We agree. As stated in response to Question 28: "Abuse" or "abusive use" of a .REALTOR domain name by a REALTOR® or any affiliate or other member of the National Association of Realtors (NAR) also includes violation or breach of the membership duties owed by a member and a violation of a material provision of the agreement with NAR relating to use of a domain in .REALTOR.

GAC Advice, Security checks: While respecting privacy and confidentiality, Registry operators will periodically conduct a technical analysis to assess whether domains in its gTLD are being used to perpetrate security threats, such as pharming, phishing, malware, and botnets. If Registry operator identifies security risks that pose an actual risk of harm, Registry operator will notify the relevant registrar and, if the registrar does not take immediate action, suspend the domain name until the matter is resolved.

Our Response: We agree. Additionally, we note numerous products and services are being introduced to the market place to help fulfill this need such as NameSentry (<http://architelos.com/services/namesentry/>).

We confirm the registry will suspend .REALTOR domain names found to perpetrate security threats if registrars won't. We note the licensing credentials required to achieve registration in .REALTOR, notably membership status with NAR, will serve as a built-in safeguard to those motivated to gain entry in order to perpetrate security threats.

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GAC Advice, Documentation: Registry operators will maintain statistical reports that provide the number of inaccurate WHOIS records or security threats identified and actions taken as a result of its periodic WHOIS and security checks. Registry operators will maintain these reports for the agreed contracted period and provide them to ICANN upon request in connection with contractual obligations.

Our Response: We agree.

GAC Advice, Mitigating and Handling Complaints: Registry operators will ensure that there is a mechanism for making complaints to the registry operator that the WHOIS information is inaccurate or that the domain name registration is being used to facilitate or promote malware, operation of botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law.

Our Response: We agree. As we state in response to Question 28: “If you believe that a .REALTOR domain name is or has been involved in abusive conduct, please contact our Abuse Prevention Manager at <email address> or <written address> with your complaint.” A similar complaint mechanism can be established for making complaints to the registry operator about inaccurate WHOIS information and/or domains being used for malicious activity or perpetuating security risks as the case may be.

GAC Advice, Consequences: Consistent with applicable law and any related procedures, registry operators shall ensure that there are real and immediate consequences for the demonstrated provision of false WHOIS information and violations of the requirement that the domain name should not be used in breach of applicable law; these conditions should include suspension of the domain name.

Our Response: We agree. Providing false information and/or using a .REALTOR domain name in breach of applicable law would produce consequences, such as the suspension of the domain name.

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ICANN may also use this response in any final summary, analysis, reporting, or decision-making that takes place as part of its public comment process originated by the New gTLD Board Committee located at <http://www.icann.org/en/news/public-comment/gac-safeguard-advice-23apr13-en.htm>