

REGIONAL MULTIPLE LISTING SERVICE OF MINNESOTA, INC

MLS RULES AND REGULATIONS COMPLIANCE GUIDELINES

REVISED-February 2009

Effective March 1, 1999 the REGIONAL MULTIPLE LISTING SERVICE OF MINNESOTA, INC. is responsible for the enforcement of MLS Rules and Regulations. All written complaints having to do with violations of the MLS Rules and Regulations will be considered by the RMLS staff in accordance with these Compliance Guidelines. All complaints of unethical conduct or requests for arbitration shall be referred to the association/board with which the Participant holds primary membership. Any complaint that encompasses a violation of the MLS Rules and Regulations and unethical conduct or requests for arbitration will be separated into two issues and handled by the appropriate adjudicator.

HOW IT WORKS

Alleged violations of the MLS Rules and Regulations must be made in writing and may be initiated by:

- a. MLS Participants (as defined in the MLS Rules and Regulations);
- b. Licensed and unlicensed administrative and clerical staff affiliated with the MLS Participant;
- c. Staff of RMLS or of boards/associations of REALTORS® that purchase services from RMLS; and
- d. Members of the public.

An “MLS Violation Report” should be completed (letters with the required information will be accepted) when inaccurate or incomplete information is discovered in the MLS database. These forms may be sent anonymously (mailed, faxed, emailed, or delivered) to RMLS staff.

MLS staff will check the database to confirm the violation. If a violation occurs it will fall into one of eight categories:

- a. Minor violations;
- b. Failure to correct a listing within 24 hours of a “Listing Complaint Notification”;
- c. Prohibited activities;
- d. Serious Violations;
- e. Escalating Violations;
- f. Unauthorized dissemination of property access information, system access information, and access to listing property;
- g. Continued failure to correct a listing after a “Listing Complaint Notification.” Or
- h. Failure to pay a fine.

MINOR VIOLATIONS

When one of the violations listed below is alleged, the RMLS staff will send a “Listing Complaint Notification” (by fax and mail) to the attention of the Participant. The Participant must correct the error within 48 hours (including weekends and excluding state or federal holidays). (Rev 5/7/99, 3/4/06) A second violation of the same rule may carry an automatic \$1000 fine (Rev 8/3/07).

Correctable violations include:

- a. Failure to enter a listing in the correct Area as identified in the system.
- b. Failure to report the correct sale price on a closed listing.
- c. Failure to report the correct Selling Office and Selling Agent on a closed listing.
- d. Failure to correctly report all required fields on the Property Data Form.
- e. Entries in the cooperative commission field other than a specific dollar amount, percentage, or combination thereof.

- f. Entering status changes relating to amendments to the Participant's listing agreement with a seller without the seller's written consent.
- g. Failure to provide the Service with any documentation requested by the Service within 5 business days of request.
- h. Failure to report a correct listing expiration date.
- i. Failure to list properties that are sold or which may be sold separately individually in the listing agreement and on the Property Data Form.
- j. Failure to properly notify the Service when part of a listed property was sold.
- k. Failure to remove text from photographs submitted to the Service.

FAILURE TO CORRECT A LISTING

If a "MLS Listing Complaint Notification" has been sent to the Participant, the correction must be made within 48 hours (including weekends and excluding state or federal holidays) of the notification. If the listing is not corrected within the 48 hours, the Participant shall be sent a "MLS Listing Complaint & Fine Notification." The minimum fine for this violation is \$100. (Rev. 5/7/99, 3/4/06)

FAILURE TO ENTER A REQUIRED PROPERTY PHOTO

There shall be a Notice of Failure to Enter a Required Photo sent to the Participant for not providing a required property photo. When a Notice of Failure to Enter a Required Photo is issued, there shall be an Administrative Fee of \$15.00 charged to the Participant.

PROHIBITED ACTIVITIES

A first violation of any of the following rules will result in a "MLS Listing Complaint Notification" which gives the Participant 72 hours, including weekends and excluding state or federal holidays to make the appropriate correction. A second violation of the same rule will be treated as a **SERIOUS VIOLATION** carrying an automatic \$100 fine.

- a. Sharing a listing filed with the Service with any broker or firm not a Participant of the Service without the prior consent of the listing broker.
- b. When a Participant other than the listing broker places a "For Sale" sign on a property.
- c. When a Participant other than the listing broker places a "Sold" sign on a property prior to closing without the listing brokers authorization.
- d. A Participant submits a photograph of a listing property depicting marketing or promotional messages made on behalf of the listing broker or seller.
- e. A Participant solicits a listing on property filed with the Service unless such solicitation is consistent with Article 16 of the REALTORS® Code of Ethics, its Standards of Practice, and its Case Interpretations.
- f. A Participant other than the listing broker advertises a listing without the listing brokers consent.
- g. Include an offer of compensation expressed as a flat dollar amount or a percent of sale price and the sum of the compensation fields must be greater than 0. (Rev. April 6, 2001)

ESCALATING VIOLATIONS

Escalating violations carry escalated fines to the Participant for repeated violations by the same agent. The Participant is fined \$100 automatically for the first violation per agent. Fines are escalated for repeat violations by the same agent. (Rev. September 26, 2003)

- a. **Promotional Information in Public Remarks, Photo Captions, or Media Uploads:** A participant uploads media to a listing on the Service or inputs Public Remarks or photo captions that includes any URL, with the exception of unbranded virtual tours, marketing or promotion messages made on behalf of the listing firm or seller. The fine for the first violation per office per year will be waived if the office schedules a MLS Rules & Regulations presentation to be held within 30 days of Notice of Fine. A second violation by the same agent will result in a \$500 fine to the office. Continued repeat violations by the same agent will result in a doubling of the last fine amount.
- b. **Listing Input (or Certification to Withhold) Within Three Days:** Failure to input a new listing required to be entered into the system (or submit a Certification to Withhold form on a listing where the seller refuses to permit the dissemination of the listing by the service) within three days of the contract effective date. A second violation by the same agent will result in a \$500 fine to the office. Continued repeat violations by the same agent will result in a doubling of the last fine amount.
- c. **Copying Photos:** Copying photos from the listing of another Participant and uploading them to a different Participant's listing. A second violation by the same agent will result in a \$500 fine to the office. Continued repeat

violations by the same agent will result in a doubling of the last fine amount.

- d. **Unauthorized Use of MLS Data:** There shall be a fine of \$1,000 for the unauthorized use of MLS compilations, listing information or statistical or comparable reports of the Service. The fine for the first violation per year per office will be reduced to \$250.00 if the office schedules a MLS Rules & Regulations presentation to be held within 30 days of Notice of Fine. A second violation by the same agent will result in a \$2,000 fine to the office. Continued repeat violations by the same agent will result in a doubling of the last fine amount.
- e. **Uploading Inappropriate Photo(s): A participant uploads inappropriate photo(s) to a listing.** The fine for the first violation per office per year will be waived if the office schedules a MLS Rules & Regulations presentation to be held within 30 days of Notice of Fine. A second violation by the same agent will result in a \$500 fine to the office. Continued repeat violations by the same agent will result in a doubling of the last fine amount. (Rev. December 5, 2003)
- f. **Unauthorized Dissemination of System Access Information**
There shall be a fine of \$1,000 for unauthorized dissemination of system access information. The fine for the first violation per year per office will be reduced to \$250.00 if the office schedules a MLS Rules & Regulations presentation to be held within 30 days of Notice of Fine. A second violation by the same agent will result in a \$2,000 fine to the office. Continued repeat violations by the same agent will result in a doubling of the last fine amount.

SERIOUS VIOLATIONS

Serious violations carry automatic fines. When a complaint alleges one of the violations listed below, the RMLS staff will confirm a violation in fact. If there is no violation the matter is closed with RMLS staff contacting the person who filed the original complaint when that person has requested notification of the alleged violation outcome. When the Participant has violated the MLS Rules and Regulations, a "MLS Listing Complaint & Fine Notification" will be sent to the attention of the Participant. The minimum fine for these violations is \$100.00. Serious violations include failure to:

- a. Report contract pending, contingencies and deletion of contingency flags when a listing is transferred to a contract pending status,
- b. Report closed (sold) listings,
- c. Input a price change,
- d. Disclose his/her Participation when a Participant acts as seller or purchaser.
- e. Make arrangements, as the listing broker to present an offer to a seller as soon as possible, or give the cooperating broker a satisfactory reason for not doing so.
- f. Submit a written offer, as the selling broker to the seller prior to closing where appropriate.
- g. Include a cooperating broker when an offer is made to the seller or lessor except where the seller prohibits this in writing. The listing broker must provide a copy of the seller's written instructions to the cooperating broker on request.
- h. Include the listing broker when a counter-offer is made to the purchaser except where the purchaser prohibits this in writing. The cooperating broker must provide

a copy of the purchaser's written instructions to the listing broker on request.

- i. To comply with any of the Rules and Regulations spelled out in Section 12 Republication of Broker Reciprocity Database on Internet Permitted.
- j. Failure of the listing broker to disclose a dual or variable rate commission when the listing is entered into the system. (Effective December 6, 2002)
- k. Failure of the listing broker to disclose to a potential cooperating broker the differential that would result in a dual or variable rate commission arrangement when the potential cooperating broker asks for the information. (Effective December 6, 2002)

These fines are in addition to any fines or fees assessed by the Association/ Board from which the Participant purchases multiple listing services.

UNAUTHORIZED DISSEMINATION OF PROPERTY ACCESS INFORMATION

There shall be a fine of \$1,000 for unauthorized dissemination of property access information (i.e., any violation of Section 4.1). (Effective April 7, 2000)

UNAUTHORIZED DISSEMINATION OF SYSTEM ACCESS INFORMATION

There shall be a fine of \$1,000 for unauthorized dissemination of system access information.

UNAUTHORIZED ACCESS TO LISTING PROPERTY

There shall be a fine of \$1,000 for unauthorized access of a listed property. (Effective August 18, 2000)

ENTERING AN UNLISTED PROPERTY ON THE MLS

There shall be a fine of \$1,000 for entering a listing on the MLS without a signed listing contract. (Properties sold under one-time showing agreements or new construction in a development should be entered as COMP SOLD after the transaction has closed.) (Rev. April 6, 2001)

VIOLATION OF USE OF TERM “MLS” IN MEMBER FIRM NAME & WEB ADDRESS

If a violation of Section 13 (Use of MLS in Member Firm Name and Web Address) is not corrected within seven days of notice, the Participant’s and/or subscriber’s data feed will be terminated until the correction is made. A subsequent violation by a Participant and/or subscriber will result in termination of MLS membership. Penalties are assessed against the Participant and/or the individual subscriber, depending on which is responsible for the violation. (Effective June 15, 2006 for required disclaimers in advertisements/Web sites, and September 3, 2006 for use of “MLS” or “Multiple Listing Service” in Web site URLs).

Examples of Broker and/or Agent Subject to Penalty

1. An agent violates the rule through their own agent Web site without broker assistance. For example, an agent buys and uses the URL www.MLS4U.com, a site that primarily promotes the agent’s business. The broker is unaware and does nothing to facilitate it on behalf of the agent. Only the agent is penalized.
2. A brokerage violates the rule through their broker Web site. For example, the Acme Realty Company uses the URL www.acmerealty.com/MLSSearch/ for its company-wide Web site. The broker is penalized. Individual agents within that company are also affected. Anytime a broker’s MLS access is shut off, it is also shut off for all agents of that firm.

Within 7 days of notice of a Section 13 violation, the member may elect to commence a complaint resolution process. (If the member does not cure the violation or initiate a complaint resolution process within 7 days after the date of the notice, the violation will be deemed to have been found against the member with the same effect as adjudication after a hearing.) The hearing will occur within 7 days after the request is initiated. The hearing panel will be selected as follows: The RMLS shall be entitled to select one hearing panelist from the local association of the member. The member accused of a violation of the Rule will similarly be entitled to select one panelist from the local association of the member. The two panelists thus selected shall agree upon a third panelist to be chosen from the list of hearing officers certified by the Minnesota Association of Realtors. The panel shall have discretion to determine whether a willful violation has occurred and if so, what if any, penalty shall be imposed upon the member. However, the panel shall not have the discretion or authority to impose the penalty of loss of membership in the RMLS or loss of access to the IDX data feed from the RMLS unless and until a third willful violation has been alleged and adjudicated (or deemed adjudicated, as stated above) in the manner described above. For purposes of imposing a penalty under this section in violation of Section 13 by an agent will be treated wholly, separately and apart from a violation by the broker.

FAILURE TO CORRECT WITHIN 48 HOURS

When an “MLS Listing Complaint & Fine Notification” has been sent, the Participant must make the correction within 48 hours (excluding weekends and state or federal holidays). Failure to correct a listing within that time results in an increase of the fine to

\$500. Every 48 hours (excluding weekends and state or federal holidays) thereafter, the fine will be doubled (up to a maximum fine amount of \$2,000) until the correction is made. (Rev. December 5, 2003)

FAILURE TO PAY FINES

Failure to pay a "MLS Listing Complaint & Fine Notification" fine within 20 days incurs an additional minimum fine of \$200. Every 30 days thereafter another \$200 fine may be levied if the fines are not paid. Failure to pay accumulated fines of \$500 or more may result in the termination of MLS services. The Participant and the association/board from which the Participant purchases its MLS services shall be sent a "Notification of Intent to Terminate MLS Services." If the fines have not been paid within 10 days of the "Notification of Intent to Terminate MLS Services" the Participant's services shall be terminated. When MLS services of a Participant are terminated for non-payment of fine(s) the service will be reinstated when the fine(s) have been paid and the Participant fulfils all obligations imposed by the association/board the Participant purchases his/her services from.

HEARING REQUEST

(Revised September 26, 2003)

Any Participant, having reason to believe that the fine imposed on that Participant by the Service is without merit, may file an "MLS Compliance Hearing Request" form. The request for a Hearing must:

1. Include proof of correction where applicable;
2. Include copies of any relevant documents;
3. Include payment of assessed fine;
4. Include an appearance deposit equal to ½ the assessed fine which

will be returned to the Participant as long as the Participant is not deemed "non-appearing"; and

5. Be sent to the RMLS Director of Compliance within twenty (20) days after the "MLS Listing Complaint & Fine Notification."

If in the opinion of the RMLS staff and the person filing the original complaint (when that person has requested notification of the alleged violation outcome) the Participant is able to show compliance with all rules and regulations and that the fine was erroneous, the assessed fine and the appearance deposit will be refunded. If either the RMLS staff or the person who filed the original complaint is not satisfied that the Participant was/is in compliance with all rules and regulations, the matter shall go to a hearing before the MLS Hearing Panel.

Within 15 days of receiving a "MLS Compliance Hearing Request" form and all other required items, RMLS staff shall send notice to the Participant requesting a hearing, offering two hearing dates. The Participant will have 15 days to notify the RMLS staff of the preferred date. If the Participant does not respond within the 15 days, it will be considered a "non-appearance" the fine will stand and the Participant forfeits the appearance deposit.

When the Participant selects a date within the 15-day window, the RMLS staff will send the Participant requesting the hearing, within 15 days, the list of the MLS Hearing Panel members scheduled to appear at the hearing and the list of alternates. If the Participant believes it has good cause, the Participant may request the substitution of an alternate to sit on the MLS Hearing Panel. Substitution requests must occur at least 15 days before the hearing date. The Participant must provide a written detailed explanation for the substitution request. The RMLS staff will review the request and

schedule the alternate when appropriate. All decisions on whether a substitution is appropriate will be determined solely in the discretion of the RMLS staff. If the RMLS staff does not hear from the Participant it will be assumed that the scheduled panel is acceptable. Last minute emergency absences by scheduled panel members will be filled with the scheduled alternate from the same association/board.

MLS HEARING PANEL

The five (5) members of the MLS Hearing Panel shall be selected from the state association Professional Standards Committee. Members of the MLS Hearing Panel shall not be:

- a. Members of the RMLS Board of Governors;
- b. Executives or staff of associations, boards or RMLS; or
- c. Members of the Board of Directors of any association/board.

Only one person connected with any association/board providing subscriptions to the RMLS MLS service shall serve on any one panel of the MLS Hearing Panel. Each hearing panel shall elect its own chairperson.

All hearings and procedures shall be conducted in accordance with the Code of Ethics and Arbitration Manual for the National Association of REALTORS® and such Rules and Regulations as promulgated by the RMLS from time to time.

REQUESTS FOR DOCUMENTS

Members of the panel scheduled for a hearing may request, from the Participant filing the hearing request, any documents that are deemed by the panel to be relevant and necessary to the determination of the

hearing. The Participant requesting the hearing shall provide the documents requested by the hearing panel. In most cases, the relevant and necessary documents will have been submitted with the "MLS Compliance Hearing Request". Any failure to provide requested documents shall be deemed a "non-appearance", the hearing shall be cancelled, the Participant shall have no further recourse and the appearance deposit shall be forfeited.

If a member of the hearing panel fails or is unable to participate in a hearing, the remaining members of the panel may at their option, but only with the express consent of the parties, proceed with the hearing. Only the remaining members of the panel may participate in the hearing and the determination thereof. Should any member of the panel absent himself during the progress of the actual hearing, that individual shall likewise not participate in the deliberations nor determinations thereof. If all the parties do not agree to proceeding without the full number of the panel originally designated, the hearing will recess to a date on which all members of the panel can be present. Notice of a subsequent date shall be served on all parties as herein provided.

CONTINUANCE OF HEARING

If the Participant fails to appear at the hearing and has not requested a continuance, the hearing shall proceed as scheduled and the Participant forfeits the appearance deposit. One continuance may be granted if there are extenuating circumstances. Requests for continuance must be made in writing at least 48 hours prior to the hearing date to the RMLS staff. All decisions on whether a continuance is appropriate will be determined solely in the discretion of the RMLS staff. When a continuance is granted, the RMLS staff shall

send notice to the Participant requesting a hearing, offering two hearing dates. The Participant will have 15 days to notify the RMLS staff of the preferred date. If the Participant does not respond within the 15 days, it will be considered a “non-appearance” the fine will stand and the Participant forfeits the appearance deposit. If the Participant fails to appear before the MLS Hearing Panel for the second scheduled hearing pursuant to the continuance, the Participant forever waives the right to contest that fine which is the subject of such hearing.

CANCELLATION OF HEARING REQUEST

The Participant who filed the “MLS Listing Compliance Hearing Request” may cancel the request. The request must be in writing and received (mail or fax) by noon of the business day preceding the hearing date. The appearance deposit will be refunded in full. The Participant forever waives the right to contest the fine which was the subject of said hearing.

RECORDING THE HEARING

The RMLS staff shall tape-record the proceeding. Any other party may at his/her own expense have a court reporter present or tape record the proceeding. If transcribed, a transcript shall be sent to the RMLS staff.

HEARING PROCEDURES

The MLS Hearing Panel shall not be bound by the rules of evidence applicable in courts of law, but shall endeavor to afford all parties a reasonable opportunity to be heard, present witnesses, and offer evidence, subject to the panel’s judgment as to relevance.

All hearings and procedures shall be conducted in accordance with the Code of Ethics and Arbitration Manual for the National Association of REALTORS® and such Rules and Regulations as may be promulgated by the RMLS from time to time.

HEARING OUTCOME

The RMLS shall return/refund the Participant’s appearance deposit in full if the Participant has appeared. The decision of the MLS Hearing Panel will be by a simple majority vote. The MLS Hearing Panel will submit their decision in writing, signed by all panel members to the RMLS staff and the Participant requesting the hearing, within 10 days. If a majority of the MLS Hearing Panel finds that a rule or regulation has been violated the fine stands. If a majority of the MLS Hearing Panel finds that the Participant’s appeal prevails on its merits, the panel may revoke the fine that is the subject of the Participant’s appeal. The Panel may consider mitigating circumstances and reduce the amount of the fine if they think it’s warranted. The RMLS will mail a full (or partial) fine refund to the Participant within 5 business days of the notification of the fine revocation (or reduction).

RECORDS

RMLS staff will retain records of all complaints and their disposition and tapes from MLS compliance hearings for 7 years.