

MLS STANDARDS WORK GROUP RECOMMENDATIONS

TO THE MULTIPLE LISTING ISSUES AND POLICIES COMMITTEE

NOVEMBER 2020

During the August 20-21, 2020 meeting of the MLS Technology and Emerging Issues Advisory Board, the MLS Standards Work Group presented its Interim Report and several recommendations. These recommendations were approved by the MLS Advisory Board.

Based on that approval, the following recommendations and specific policy language will be provided to the Multiple Listing Issues and Policies Committee for its consideration and approval in Nov.

Recommendation 1

That the following guidance for Administrative Sanctions be added to the MLS Disciplinary Guidelines outlined in the *MLS Handbook* at Part Two, F. Enforcement of Rules, Section 5:

Administrative Sanctions

The following is guidance for issuing administrative sanctions for MLS rule violations:

- Category 1 violation means a rule violation relating to listing information provided by a participant or subscriber.
- Category 2 violation means a rule violation relating to IDX and VOW displays.
- Category 3 violation means a rule violation relating to cooperation with a fellow participant or subscriber, and mandatory submission of listings to the service

First Category 1 violation (or first violation within three [3] years):

Possible discipline:

- Letter of warning
- Fine of \$500 or less
- Attendance at relevant education session

Any combination of the above

Repeat Category 1 violation (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$2,000 or less

Any combination of the above

First Category 2 violation (or first violation within three [3] years):

Possible discipline

- Letter of reprimand
- Fine of \$2,000 or less
- Attendance at relevant education session(s)

Any combination of the above

Repeat Category 2 violation (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$10,000 or less
- Suspension from the MLS or from the MLS' lockbox key access for three (3) months or less

Any combination of the above

First Category 3 violation (or first violation within three [3] years):

Possible discipline:

- Letter of reprimand
- Fine of \$10,000 or less
- Attendance at relevant education session(s)
- Suspension from MLS or from use of the MLS' lockbox key access for ninety (90) days or less

Any combination of the above

Repeat Category 3 violation (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$15,000 or less
- Suspension from MLS or from use of the MLS' lockbox key access for six (6) months or less
- Termination from MLS or from use of the MLS' lockbox key access for 1 to 3 years

Any combination of the above

MLSs are encouraged to use the MLS Schedule of Fines Table provided on NAR.realtor to establish standardized administrative sanctions for violations of the MLS rules.

Scope of MLS Handbook for addressing MLS Rule Violations

Potential violations of the MLS rules will be processed in accordance with MLS Policy Statement 7.21, and under the process provided for in Section 9 of the NAR model MLS Rules and Regulations. Potential violations of a data license agreement are not governed by NAR policy and will thus follow the terms for resolution in the agreement itself. |

Rationale for Recommendation 1: This guidance will help MLSs identify appropriate discipline for violations of the MLS rules and apply such discipline consistently.

Recommendation 2

MLS Participants and Subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by Participants and Subscribers before requiring a hearing.

Recommendation 3

That a copy of all administrative sanctions against a subscriber be sent to the subscriber's participant and that the participant be required to attend hearing(s) of a subscriber who has received more than three (3) administrative sanctions within a calendar year.

Rationale for Recommendations 2 and 3

Participants and subscribers must be held accountable to the MLS rules. The changes also emphasize the importance of a Participant's oversight for the actions of their affiliated subscribers.

Any participant or subscriber who loses the ability to receive an administrative sanction must attend a hearing to consider their actions consistent with the procedures in Section 9 of the MLS rules.

Pursuant to Policy Statement 7.9, an MLS participant includes the principal, partner, corporate officer, or branch office manager acting on behalf of a principal.

Pursuant to Section 14, Nature of Discipline, *Code of Ethics and Arbitration Manual*, MLSs may charge an administrative processing fee of up to \$500, in addition to any discipline imposed, used to help cover the costs of holding the hearing.

If these recommendations are approved, then *MLS Handbook*, Policy Statement 7.21 would be amended as follows:

(underlined text identifies additions, strike-through text identifies deletions)

Section 1 Appropriate Procedures for Rules Enforcement (Policy Statement 7.21)

Administrative Sanctions

In any instance where a participant in an association multiple listing service is charged with a violation of the MLS bylaws or rules and regulations of the service, and such charge does not include alleged violations of the Code of Ethics or the Standards of Conduct for MLS participants, or a request for arbitration, ~~it may be administratively considered and determined by the MLS governing committee or MLS board of directors~~ the MLS may impose administrative sanctions. If a violation is determined, the committee or MLS board of directors may direct the imposition of sanction, provided that the Recipients of such an administrative sanction may request a hearing before the professional standards committee of the association.

MLS Participants and Subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by Participants and Subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year. M

Recommendation 4

That MLSs be required to process a complaint without revealing the complainant's identity and that the MLS Committee, Grievance Committee, MLS staff, or other representative serve as the complainant if the complaint is forwarded to a hearing and the original complainant does not consent to participating in the process or disclosure his or her name.

Rationale for Recommendation 4

By authorizing anonymous complaints of MLS rules, the enforcement process can eliminate the stigma of bringing questionable actions and business practices of other participants and subscribers to the attention of the MLS. Where a hearing is warranted, a complainant will need to be named and can be fulfilled by representatives of the MLS Committee, Grievance Committee, MLS staff, or others.

If this recommendation is approved, then *MLS Handbook*, Policy Statement 7.21 would be amended as follows:

(underlining text identifies additions)

Section 1 Appropriate Procedures for Rules Enforcement (Policy Statement 7.21)

Filing Complaints

When requested by a complainant, MLSs must provide a process for processing complaints without revealing the complainant's identity. If the complaint is forwarded to hearing, then the MLS Committee, Grievance Committee, MLS staff or other representative must serve as the complainant when the original complainant does not consent to participating in the process or the disclosure of his or her name. ... M

Recommendation 5

That Web API data feeds must include no less than the same data fields provided to participants and subscribers via other data feeds, such as RETS or FTP systems.

Rationale for Recommendation 5

This change will ensure that Web API data feeds include the same listing content provided in other MLS data feeds, and will no longer be a disincentive to selecting a Web API data feed.

If this recommendation is approved, then *MLS Handbook*, Policy Statement 7.90 would be amended as follows:

(underlined text identifies additions, strike-through text identifies deletions)

Section 12, Real Estate Transaction Standards (RETS) and RESO Standards (Policy Statement 7.90)

*The integrity of data is a foundation to the orderly real estate market. The Real Estate Transaction Standards (RETS) provide a vendor neutral, secure approach to exchanging listing information between the broker and the MLS. In order to ensure that the goal of maintaining an orderly marketplace is maintained, and to further establish Realtor® information as the trusted data source, MLS organizations owned and operated by associations of Realtors® will implement the RESO Standards including: the RESO Data Dictionary by January 1, 2016; the RESO Web API by June 30, 2016 and will keep current by implementing new releases of RESO Standards within one (1) year from ratification. Compliance with this requirement can be demonstrated using the Real Estate Standards Organization (RESO) compliance Certification Process. Web API data feeds provided to Participants and Subscribers must have no less than the same data fields in other data feeds, such as RETS or FTP systems. (Amended 11/14/20) **M***

Recommendation 6

That participants and subscribers be required to submit accurate listing data, and be required to correct any known errors.

Rationale for Recommendation 6

The quality of listing content is paramount to the value proposition of the MLS. All involved in the collection and submission of property information to the MLS must work together to ensure that it is accurate and without errors.

If this recommendation is approved, then *MLS Handbook*, Policy Statement 7.60 would be amended as follows:

(underlined text identifies additions, strike-through text identifies deletions)

Section 1 ~~Standard Forms Listings~~ (Policy Statement 7.60)

Maintaining accurate listing data is a critical necessity for achieving the defined purpose of the MLS. Participants and subscribers are required to submit accurate listing data and be required to correct any known errors.

*Multiple listing services ~~may shall~~ not require participants to enter into listing agreements using a form other than the form a participant individually chooses to use. Multiple listing services may ~~shall~~ refuse to accept any listing which fails to adequately protect the interests of the public and other participants, and will not accept any listing which establishes a contractual relationship between the MLS and a participant's client. (Adopted 11/04) **M***

Recommendation 7

That MLSs be required to display customer service and technical support contact information on the MLS website.

Rationale for Recommendation 7

Participant, subscribers, and vendors need contact information for the MLS to inquire about data feeds and other MLS services and products.

If this recommendation is approved, then a **new MLS Policy Statement 8.2 under Part Two: Policies, C. Administration, Operational Issues, Section 19, would be added as follows:**

Customer Service and Tech Support

The MLS must display customer service and technical support contact information on the MLS website.

Recommendation 8

That MLSs implement a process for identifying potential violations of fair housing laws and working with participants and subscribers to rectify such potential violations.

Rationale for Recommendation 8

MLSs play a vital role in providing property information and equal professional services to all consumers. This new policy statement will help MLSs provide compliant fair housing property information.

If this recommendation is approved, then a **new MLS Policy Statement 8.1 under Part Two: Policies, C. Administration, Operational Issues would be added as follows:**

Multiple Listing Services are important tools for furthering fair housing because they facilitate the widespread distribution of accurate property information to all consumers. To that end, MLSs must implement a process for identifying potential violations of fair housing laws and working with participants and subscribers to rectify such potential violations. *M*

