

IN THE MATTER OF
MLS® Rules and Policies
R-108

AND IN THE MATTER OF
The Toronto Regional Real Estate Board By-law
Article 2, section 3.01 (a) and (b)

AND IN THE MATTER OF
The Toronto Regional Real Estate Board v. Sales Representative X
AND Brokerage X

REASONS FOR DECISION

ALLEGATIONS BY THE BOARD

The complaint surrounds the property known as 123 Any Town. According to Board records, 123 Any Town was uploaded to the Board MLS® System by the Respondent on two (2) occasions. The basis of the complaint relates to the number/frequency of edits to Listing A and Listing B.

As it related to Listing A, between the date of upload and termination, forty-two (42) of the fifty-two (52) updates were made to the “Dir/Cross St” field. Specifically, a period was either added and removed almost on a daily basis.

When Listing B was uploaded to the Board MLS® System, the same immaterial updates continued to be made. To date, seven (7) of the sixteen (16) updates to this listing were made to the to “Dir/Cross St” field.

Based on the aforementioned, the Hearing Panel is requested to contemplate whether the edits made to Listing A and Listing B were done with intent to circumvent proper use of the Board MLS® System.

EVIDENCE BY THE RESPONDENT

In response to the complaint, the Respondent apologizes for the mistake and submits that they were not aware of the Board Rules as it related to updating active listings.

The Respondent asks the Hearing Panel to consider that as a member of the Board, it has taken every effort to comply with the Board Rules and By-Laws. Furthermore, it will take extra care to ensure that they update all of their Board MLS® Listings in accordance with the Board Rules and By-Laws.

It is further indicated the fault was partially caused by administrative staff. Resultantly, two of the three administrators have since been terminated, in part, for their failure to report the requests made by Sales Representative X to Brokerage X.

Brokerage X further indicates that in response to the Professional Standards complaint, they have now informed all administrative staff, salespersons and brokers that any listings uploaded to the Board MLS® System shall not be updated in order to receive favourable treatment but only for changes that are necessary.

FINDINGS OF THE HEARING PANEL

The Board must consider all evidence properly before it. Hearsay evidence may be accepted and considered, but it must be carefully weighed.

The Respondent acknowledges that they made immaterial updates to the subject listings and this Hearing Panel recognizes the actions taken in response to the complaint.

Based on the volume and type of updates made, this Hearing Panel finds that these updates were immaterial in nature and deliberately performed to receive favourable treatment within the Board MLS® System. In doing so, the Respondent is viewed to have circumvented the Board MLS® System.

Based on the foregoing, this Hearing Panel finds the Respondent in breach of Board MLS® Rule R-108 and the applicable Board By-Law. Based on the evidence available, Brokerage X demonstrated a failure to oversee staff and Members to ensure that all were acting in compliance with the Board MLS® Rules. This Hearing Panel finds it appropriate to levy an increased penalty to the Brokerage equivalent to the severity of the infraction.

As such, for the violations found the Hearing Panel orders:

Sales Representative X: within 30 days of receipt of this Decision pay a fine of \$500.00

Brokerage X: within 30 days of receipt of this Decision pay a fine of \$1,000.00.