

MLS Rules and Regulations Revisions/Updates Approved by CNYIS Directors

4/21/2021/Alliance Approved 3/29/2021

Section 1.2 Detail on Listings Filed with the Service -

3. **Photos:** All property types, except vacant land and all statuses must include an exterior view of the home (main building) as the first photo and it must be submitted **within twenty-four (24) hours (excepting weekends, holidays, and postal holidays) from when the property was listed**, unless the sellers expressly direct that photographs of their property not appear in MLS compilations. An exterior front (street) view of the home (main building) is required as one of the photos. (An exception would be a "to be built" property). New Construction may use a comparable rendering or photo. Office, agent and personal promotion information is prohibited from being included anywhere on the property photo. **Photos entered into the MLS cannot be reused by another broker without the consent of the listing broker who originated the photo(s).** Any and all photos submitted cannot contain a watermark. A banner on a photo is considered 'personal promotion' and is not allowed **with the exception of virtually staged photos. If using a banner, it should read "This photo is virtually staged"**. For violations of this section, the MLS may remove the violation and/or fine the Participant.

NOTE: Photos shall not contain digitally enhanced modifications that alter or misrepresent the condition or appearance of the listed property's structure or grounds (e.g. adding/removing landscaping, changing the color of a wall or removing a structural defect). Images may include the use of virtual staging, which is limited to the addition of furnishings and wall décor that would otherwise be considered personal property and not conveyed in the sale of the property.

4. **Attachments:** Attachments are required if the form is required by State or Federal laws specific to the property (i.e. Property Condition Disclosure Statement and Lead Based Paint Addendum). The form(s) must be filed as an attachment **AT THE SAME TIME** that the listing is entered into the MLS and **entered individually under the appropriate description**. All attachments must contain information, (i.e. disclosure forms, photos, floor plans, maps virtual tours) specifically related to the property being offered. These attachments should not be used for listing agent, company or personal promotion

6. Remarks Sections:

- a. "Public" Remarks Section – This section is reserved to further describe the property being offered for sale or lease. It should NOT contain: anything that is not about the property itself including marketing info; showing info; personal information; company information; web addresses; phone numbers; co-listers; links; bonus information; **words or phrases that could violate Fair Housing laws**; other inappropriate information, unless required by MLS Rules or guidelines.
- b. "Private" Remarks Section – This section is reserved for information to be shared with other MLS Participants. This includes: bonus information; lock box location; appointment information; web addresses.

Note: It is the responsibility of the Designated REALTOR to ensure accuracy at all times. The responsibility of data accuracy when entered in the MLS cannot be placed on another party such as the buyer or buyer's agent.

7. **Delayed Showings/Negotiations:** Delayed Showings/Negotiations (DNS notices) are allowed. All listings in the Service that are not immediately available for showing/negotiations must have the owner(s) complete the **required** Delayed Showing/Negotiation Form. This form must be filed as an attachment to the listing **AT THE SAME TIME** the listing is entered into the MLS **and entered individually under the appropriate description**. The date(s) and time(s) that the property will be available for showing and/or negotiations **MUST** be put into the PRIVATE & PUBLIC Remarks. Open houses are not to be scheduled

during the “No showing” time frame. Note: The property is to be considered “Active” and days on market will continue to be counted.

NOTE: The Do Not Show/Negotiate Form should only be used when it is initially listed. They should use the Change Form to extend these dates and upload as an attachment.

If the seller decides, after it is listed, that they want to delay showings, the status should be changed to “T” and the Change Form used (the change form does not need to be added as an attachment.)

If the seller decides, after it is listed, that they would like to set a date for all offers to be in, they can do so by stating so in “Public Remarks”. Nothing else is required by the MLS, however you should reach out to anyone who has seen the property or scheduled to see the property to inform them of this date.

14. Square Footage – Square Footage should match the tax records. **If the tax records are incorrect and the square footage is changed from what the tax records indicate, an explanation of the difference must be disclosed in the public remarks.** *Note – please indicate the source of the adjusted square footage).* For reference, Square Footage is area which measured from the exterior is “above grade and heated living area. ~~For reference, Square Footage is area which is “above grade and heated living area”. Best way to obtain the sq. ft. is to measure the exterior dimensions of the dwelling. Fannie Mae & Freddie Mac guidelines and FHA & VA allow 50% of a below grade area to be used as sq. ft. but only if access and egress exists on two levels, such as a hillside. On a Cape Cod the second floor should be measured using the area that is at least 5 ft. or higher~~

Section 1.2.0, Accuracy of Listing Data

Participants and subscribers are required to submit accurate listing data and required to correct any known errors. **M**

Section 1.3 Exempt Listings - If the seller refuses to permit the listing to be disseminated by the Service, the participant may then take the listing (office exclusive) and such listing shall be filed with the Service but not disseminated to the participants. Filing of the listing should be accompanied by certification (“office exclusive form”) signed by the seller that he does not desire the listing to be disseminated by the Service. The listing contract and certification form (office exclusive) must be received at the service within **2 1** business days of the listing date on the contract.

Note 1 : Section 1.3 is not required if the service does not require all *Exclusive Right to Sell and Exclusive Agency* listings to be submitted by a participant to the service. **M** Multi-Family 5+, Rentals, and Commercial listings are not required to be submitted to the service.

Note 2: MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation. **M**

Section 1.16 Monitoring Of Listings: Listing Contract Random Audit and Complaint Procedure:

Random Audits

The listing check software will randomly request a copy of a listing contract. Requested contracts must be received at the MLS office within 2 business days of the listing check request, preferably via email to: xxxyyy@abc.org (naming the document the MLS #), but it can be submitted via fax or USPS. Failure to submit the contract within the specified time frame will result in a fine to be paid within 30 days. If fine is

not paid by the due date, a ten day suspension notice will be sent. Services will remain suspended until the fine is paid. ~~Recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS within twenty (20) day following receipt of the director's/manager's decision.~~ The recipient of such a sanction may request a hearing before the appropriate MLS Rules review body for their Multiple Listing Service within twenty (20) days following receipt of the sanction notice.

The requested contracts will be reviewed for compliance with the MLS rules. Non-compliance may result in additional fines.

Renewals – the listing check software will randomly automatically send out requests for the renewal paperwork (either listing contract or form.) Requested paperwork must be received at the MLS office within 2 business days of the listing check request, preferably via email to: xxxxyyy@abc.org (naming the document the MLS #), but it can be submitted via fax or USPS. Failure to submit the paperwork within the specified time frame will result in a fine to be paid within 30 days. If fine is not paid by the due date, a ten day suspension notice will be sent. Services will remain suspended until the fine is paid. ~~Recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS within twenty (20) day following receipt of the director's/manager's decision.~~ The recipient of such a sanction may request a hearing before the appropriate MLS Rules review body for their Multiple Listing Service within twenty (20) days following receipt of the sanction notice.

The requested information will be reviewed for compliance with the MLS rules. Non-compliance may result in additional fines.

Complaints

If a complaint is received by the MLS and a copy of the listing contract/withdrawal form/mutual termination form, etc. is requested, the agent/manager/office must produce the contract within the following time frame:

AM request – by 4:00 p.m. the same day.

PM request – by Noon the following business day.

Failure to submit the contract within the specified time frame will result in a fine to be paid within 30 days. If the fine is not paid by the due date, a ten day suspension notice will be sent. Services will remain suspended until fine is paid. ~~Recipient of such sanction may request a hearing before the professional standards committee of the association in accordance with the bylaws and rules and regulations of the association of REALTORS within twenty (20) day following receipt of the director's/manager's decision.~~ The recipient of such a sanction may request a hearing before the appropriate MLS Rules review body for their Multiple Listing Service within twenty (20) days following receipt of the sanction notice.

Note: the request will be made via phone call to the Designated REALTOR, office manager or secretary. The request time frame will be based on the time that personal contact was made with the manager or secretary.

Compliance with Rules

Section 7 Compliance with Rules—Authority to Impose Discipline: By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing

procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. (Adopted 11/07) **M**

Note 1: A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 05/14) **M**

Note 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. 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. (Adopted 11/20) **M**

Section 7.1 Compliance with Rules: The following action may be taken for noncompliance with the Rules:

- a. For failure to pay any service charge or assessment within one (1) month of the date due, and provided that at least ten (10) days' notice has been given, the service shall be suspended until service charges or fees are paid in full.
- b. For failure to comply with any other rule, the provisions of Sections 9 and 9.1 shall apply.

Upon notification to the MLS of any infraction of the MLS Rules and Policies, the MLS Staff or Automated Compliance Program will do the following: Contact the listing agent or manager or Designated REALTOR® of the firm to resolve the infraction. If the infraction is not corrected within forty-eight (48) hours, the appropriate sanction will be imposed on the Designated REALTOR®. The first notification of a rule violation is used to educate the agent of the infraction and the Listing **Brokerage Agent** is given 48 hours to correct or the applicable fine will be assessed. The second notification for same rule violation (for any listing) to the same agent sets grounds for an immediate first offense fine to the ~~agent and~~ DR® (refer to Appendix A). The third notification for same rule violation (for any listing) sets grounds for an immediate second offense fine to DR® (refer to Appendix A), etc.

Note: Generally, warning, censure, and the imposition of a moderate fine are sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service. If the MLS desires to establish a series of moderate fines, they should be clearly specified in the rules and regulations. (Amended 11/88) **R**

Enforcement of Rules or Disputes

Section 9 Consideration Of Alleged Violations: The **Rules & Regulations Committee of MLS Name** shall give consideration to all written complaints having to do with violations of the Rules and Regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors). (Amended 12/18) **M**

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. (Amended 11/20) **M**

Use of MLS Information

Section 13 Limitations on Use of MLS Information: Information from MLS compilations of current listing information, from statistical reports, and from any sold or comparable report of the MLS may be used by MLS participants as the basis for aggregated demonstrations of market share or comparisons of firms in public mass-media advertising or in other public representations. This authority does not convey the right to include in any such advertising or representation information about specific properties which are listed with other participants, or which were sold by other participants (as either listing or cooperating broker).

However, any print or non-print forms of advertising or other forms of public representations based in whole or in part on information supplied by the association or its MLS must clearly demonstrate the period of time over which such claims are based and must include the following, or substantially similar, notice:

Based on information from the New York State Alliance of MLS's for the period (date) through (date). **M**

Note – If a subscriber chooses to post data (MLS reports, such as Agent Ranking) with their participant's permission, they may only post their own name and production.