



MULTIPLE LISTING SERVICE OF SOUTHERN ARIZONA

Rules and Regulations Update

The following updates to the Rules and Regulations were adopted by MLSSAZ on July 29, 2024:

Section 1 Multiple Listing Service (MLS) Defined

A multiple listing service is:

- A facility for the orderly correlation and dissemination of listing information so participants may better serve their clients and customers and the public
- a means of enhancing cooperation among participants
- a means by which information is accumulated and disseminated to enable authorized participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers
- a mean by which participants engaging in real estate appraisal contribute to common databases
(Revised 8/24) **M**

Section 2 Definition of MLS Participant (Policy Statement 7.9)

Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and cooperate or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interest of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a participant's licensure(s) or certification and unauthorized uses are prohibited.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm cooperates means that the participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, shares information on listed property, and makes property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. "Actively" means on a continual and ongoing basis during the operation of the participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a participant or potential participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a participant or potential participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the participant or potential participant as long as the level of service satisfies state law.

The key is that the Participant or potential Participant cooperates with respect to properties of the type that are listed on the MLS in which participation is sought. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interest of their clients. This requirement does not permit an MLS to deny participation to a participant or potential participant that operates a "Virtual Office Website" (VOW) (including a VOW that the participant uses to refer customers to other participants) if the participant or potential participant actively endeavors to cooperate. An MLS may evaluate whether a participant or potential participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the participant or potential participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all participants and potential participants.

Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. Additionally, the foregoing does not prohibit association multiple listing services, at their discretion, from categorizing non-principal brokers, sales licensees, licensed and certified appraisers and others affiliated with the MLS members or participants as users or subscribers and, holding such individuals personally subject to the rules and regulations and any other governing provisions of the MLS and to discipline for violations thereof. MLSs may, as a matter of local determination, limit participatory rights to individual principal brokers, or to their firms, and to licensed or certified appraisers, who maintain an office or Internet presence from which they are available to represent real estate sellers, buyers, lessors or lessees or from which they provide appraisal services.

Where the terms subscriber or user are used in connection with a multiple listing service owned or operated by an association of REALTORS®, they refer to non-principal brokers, sales licensees, and licensed and certified real estate appraisers affiliated with an MLS participant and may, as a matter of local option, also include a participant's affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers provided that any such individual is under the direct supervision of an MLS participant or the participant's licensed designee. If such access is available to unlicensed or uncertified individuals, their access is subject to the rules and regulations, the payment of applicable fees and charges (if any), and the limitations and restrictions of state law. None of the foregoing shall diminish the participant's ultimate responsibility for ensuring compliance with the rules and regulations of the MLS by all individuals affiliated with the participant.

Under the Board of Choice policy, MLS participatory rights shall be available to any REALTOR® (principal) or any firm comprised of REALTORS® (principals) irrespective of where they hold primary membership subject only to their agreement to abide by any MLS rules or regulations; agreement to arbitrate disputes with other participants; and payment of any MLS dues, fees, and charges. Participatory rights granted under Board of Choice do not confer voting privileges or eligibility for office as an MLS committee member, officer, or director, except as granted at the discretion of the local board and/or MLS.

The universal access to services component of Board of Choice is to be interpreted as requiring that MLS participatory rights be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held.

The MLS may charge participants and subscribers not holding primary or secondary membership in a REALTOR® association that owns the MLS a different amount than charged to members of the association, provided that such charge is reasonably related to the actual costs of serving those members.

None of the foregoing shall be construed as requiring an association to grant MLS participatory rights, under Board of Choice, where such rights have been previously terminated by action of that association's board of directors. (Amended 8/24) **M**

Section 1.16 Restrictions to Listing Information

- a. Property Description/Remarks:
 - (4) Website addresses or URLs are prohibited in Agent Remarks, if any part of the website contains compensation information.

Section 1.9 No Control of Commission Rates or Fees Charged by Participants

The multiple listing service shall not fix, control, recommend, suggest or maintain Commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest or maintain the division of commissions or fees between cooperating participants, or between participants and nonparticipants. **M**

Section 4.5 Services Advertised as "Free"

MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. **M**

Section 4.6 No Filtering of Listings

Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent. **M**

No Compensation Specified on MLS Listing

Section 5 No Compensation Specified on MLS Listings

Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.

Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that participants access to any MLS data and data feeds.

- Note 1: The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in the listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a Participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).
- Note 2: The multiple listing service shall make no rule on the division of commissions between Participants and Non-Participants. This should remain solely the responsibility of the listing broker.
- Note 3: Multiple listing services must give Participants the ability to disclose to other participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require participants to disclose potential short sales when participants know a transaction is a potential short sale (Amended 8/24) **M**

Section 5.0.0 Required Consumer Disclosure

Disclosure of Compensation: MLS Participants and Subscribers must:

1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully

negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).

2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount of rate of any such payment and be made in writing in advance of any payment or agreement to pay (Adopted 8/24) **M**

Section 5.0.1 Disclosing Potential Short Sales

Participants must disclose potential short sales (defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies) when reasonably known to the listing participants. (Amended 5/09) **M**

Section 5.0.2 Written Buyer Agreement

Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:

- a. specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.
- b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.
- c. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
- d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable. **M**

Schedule of Fees and Fines

Section 26 - Schedule of Fines for Violations:

The attached table is a list of current fines for listing violations that relate to information filed improperly with the MLS. The MLS Standards Committee and MLS staff has the right and obligation to enforce these policies and any alleged violation of our Rules and Regulations in accordance with Section 9 and 9.1 of the MLS Rules and Regulations. Violations other than those stated below are subject to review and issuance of a determined fine amount. In addition to receiving a fine, Individuals cited may also be required to attend education and training as determined by the MLS Standards Committee. The National Association of REALTORS® allows for a maximum fine of \$15,000.00 per MLS Rules violation. (Amended 09/2020)

Non-Verifiable Violations

Non-Verifiable Violations are possible violations based on the initial evidence presented, MLS staff is unable to make a determination if an MLS rule was violated. Non-Verifiable Violations typically require a period for discovery. During the discovery process MLS staff may request additional documentation and further information from the complainant and or respondent. If the violation found is not correctable by MLS staff, a Notice of Correction will be emailed to the Participant and Subscriber. The Notice of Correction will require the Participant or Subscriber to address the alleged violation by the due date stated in the notice. A Notice of Correction must be addressed within three (3) calendar days from the

date the notice was sent. If the requested correction has not been appropriately addressed within three (3) calendar days of the receipt of the Notice of Correction, on the following business day the Compliance department will assess a minimum fine under these rules administratively. In the event the complaint is not resolved within twenty (20) calendar days, the matter may be referred to the MLSSAZ Standards Committee for review at its next regularly scheduled meeting. If multiple violations are found in the same listing, they shall be treated as one violation and the most severe penalty available for any of the individual violations shall apply. For complete details see MLSSAZ Policy 39 Correction and Compliance – Section 6.1

Rule Section	Description	Fines
Section 1.4.1	Incorrect Square Footage - Owner/Other Stated	\$25
Section 1.4.1	Incorrect Lot Size - Owner Stated	\$25
Section 1.4.1	Garage-Carport Count	\$25
Section 1.4.1	Distressed Info	\$25
Section 1.4.1	Inaccurate View	\$25
Section 1.4.1	Association Amenities	\$25
Section 1.4.2	Incorrect number of Bedrooms	\$50
Section 2.6	Reporting Resolutions of Contingencies	\$25
Section 2.9	Availability of Listed Property	\$150
Section 4.3	Solicitation of Listing Filed with the MLS	\$250
Section 4.5	Use of the Terms MLS and Multiple Listing Service	\$250
Section 5.1	Failure to disclose Owner-Agent Status	\$500
Section 9.3	Unauthorized Use of Listing Content	\$250
Section 11	Copyright Infringement	\$250
Section 23.4	Securing Property	\$1000
Section 23.8	Simultaneous Unrelated Showings	\$250
Section 24	Sign-In Sheets	\$150

Verifiable Violations

A Verifiable Violation occurs when an MLSSAZ rule is violated, and the violation is confirmed based on trusted official sourced information. Verifiable-Violations will incur an immediate fine as outlined in the table below. The Compliance Department may assess fines under these rules administratively, without a hearing, subject to a Participant’s or Subscriber’s right to appeal. A Notice of Correction and fine amount will be sent by email to the Subscriber and copy to the Participant. MLS staff will make the correction immediately where applicable. If MLSSAZ staff is unable to make a definitive determination, the alleged violation shall be subject to the rules of MLSSAZ Policy 39 Correction and Compliance Section 6.1 Non-Verifiable Violations. Examples of verifiable violations include, but are not limited to the following:

Rule Section	Description	Fines
Section 1	Listing Procedures - Late Listing Submission	\$150
Section 1	Active Listing without Valid Listing Agreement	\$1000
Section 1.01	Clear Cooperation Policy	\$500
Section 1.4.1	Subdivision	\$25
Section 1.4.1	Zoning	\$25
Section 1.4.1	Schools	\$25
Section 1.4.1	Dwelling Type	\$25
Section 1.4.1	Property SqFt/Lot Size	\$25
Section 1.4.1	Incorrect Closed/Rented Information	\$50
Section 1.4.1	Accuracy of Listing Data - Data Errors	\$15
Section 1.4.3	Year Built	\$50
Section 1.7	Change Listing Status	\$150
Section 1.16	No URL's in Listing Remarks	\$500
Section 1.18	Restriction to Listing Information	\$150
Section 1.18.7	Fair Housing Violation	\$1000
Section 1.19	Submitting Photos to MLS	\$150
Section 1.19-B	No Primary Photo	\$50
Section 2.5	Reporting Sales to MLS	\$500
Section 2.7	Advertising of Listing Filed with the MLS	\$250
Section 2.8	Reporting Cancellation of Pending Sale	\$150
Section 2.10	Reporting of Team Listings	\$150
Section 2.11	Failure to Follow Showing Instructions	\$500
Section 4.1	For Sale Signs	\$150
Section 4.2	Sold Signs	\$150
Section 5	No Offers of Compensation	\$500
Section 5.1	Participants as Principal	\$500
Section 5.0.2	Written Buyer Agreement	\$500
Section 23.3	Keybox Security	\$1000
Section 23.6	Removal of Keybox	\$500
Section 24.1	Sign-In Sheets - Sign In Required	\$150
Section 25	Unauthorized Access to MLS	\$1000

Section 27 - Schedule of Fees:

The attached table is a list of current fees established by the Board of Directors. Fees other than those stated below are subject to review by the Board of Directors.

<u>Description</u>	<u>Fee</u>
• Property Re-list	\$30.00
• Payment Late Fee	\$75.00
• Annual MLS Limited Subscriber Fees	\$100.00
• MLS Application Fee	\$150.00
• Supra Loaner Key not returned	\$249.00
• New Office Application Fee	\$250.00
• Archiving Listing History Fee	\$250.00