

MLS RULES UPDATE – Effective 04/19

The MLS Committee would like to inform our members of recent changes to the Tulare County MLS Rules and/or Policies. Please familiarize yourself with the changes below:

- **Subject to MLS Rules**
- **Indemnification; Limitation of Liability**
- **Pursuing Complaints of Unauthorized Use of Listing Content**
- **Citation Policy Fine Schedule Update**

Subject to MLS Rules

Section 4.11 (Subject to MLS Rules) has been added to clarify and reinforce MLS rule and enforcement applicability.

4.11 Subject to MLS Rules. *By becoming and remaining a Participant, Subscriber or Clerical User, each Participant, Subscriber and Clerical User agrees to be subject to these MLS rules and regulations, the enforcement of which are at the sole discretion of the applicable Committee/Board of Directors.*

Exempted listings / MLS Seller Exclusion

Section 11.10 (Indemnification; Limitation of Liability) has been revised to broaden participant indemnification obligations to the MLS and other participants regarding listing content.

11.10 Indemnification; Limitation of Liability. *Participant and Subscriber shall defend, indemnify and hold harmless the service and every other Participant and Subscriber for from and against any liability, claims, costs, damage or losses, including reasonable attorney fees and court costs, incurred by the MLS resulting from or arising out of any content Participant and/or Subscriber submit to or in any way wrongfully reproduce from the Service. In no event will the MLS be liable to any MLS Participant, Subscriber or any other party for any indirect, special or consequential damages arising out of any information published in the MLS and all other damages shall be limited to an amount not to exceed the MLS fees paid by the listing broker.*

Pursuing Complaints of Unauthorized use of Listing Content

Section 11.11 (Pursuing Complaints of Unauthorized Use of Listing Content) has been added to incorporate NAR requirement that MLSs impose a mandated pre-procedure for participant vs participant complaints of unauthorized use of listing content before any participant be allowed to go outside the MLS and file a complaint in court.

11.11 Pursuing Complaints of Unauthorized Use of Listing Content. *MLS Participants and Subscribers may not take legal action against another Participant or Subscriber for alleged rules violation(s) unless the complaining Participant or Subscriber has first exhausted the remedies provided in these rules.*

(a) Notice. Any Participant or Subscriber who believes another Participant or Subscriber has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No Participant or Subscriber may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this section of the MLS rules.

(b) Response. Upon receiving a notice, the applicable Committee/Board of Directors will send the notice to the Participant or Subscriber who is accused of unauthorized use. Within ten (10) days from receipt, the Participant or Subscriber must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the Committee/Board of Directors that the use is authorized. Any proof submitted will be considered by the Committee/Board of Directors, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

(c) Determination. If the Committee/Board of Directors determines that the use of the content was unauthorized, the Committee/Board of Directors may issue sanctions pursuant to the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

(d) Court Action If Uncured. If after ten (10) days following transmittal of the Committee's/Board of Director's determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

Citation Policy Fine Schedule Update

Added to Tier4

Failure to follow or exhaust required internal pre-procedure for participant vs participant complaints of unauthorized use of listing content prior to proceeding to Court [Rule 11.11 (*Pursuing Complaints of Unauthorized Use of Listing Content*)]

The **TCAOR MLS Rules** can be downloaded at www.tcmls.org > About Us. Do not hesitate to contact the board/MLS office (559-627-1776) with any questions.