



BEACHESMLS

Compliance Guidelines

Effective Date: 01/23/2020

Multiple Listing Service Compliance Guidelines Index

Section	Page
1. THE VIOLATION PROCESS	3
2. LISTING VIOLATIONS	4
3. LISTING VIOLATION PENALTIES	5
4. CONDUCT VIOLATIONS	5
5. IDX AND VOW VIOLATIONS	9
6. REPEAT OFFENSE POLICY	10
7. FAILURE TO PAY	11
8. HEARING PROCEDURES	11
9. HEARING APPEAL PROCEDURES	13

BeachesMLS, Inc.

COMPLIANCE GUIDELINES

BeachesMLS, (BMLS) a wholly owned company by the Broward, Palm Beaches and St Lucie Realtors®, Inc. is responsible for the enforcement of the MLS Rules and Regulations. All complaints involving violations of the MLS Rules and Regulations will be considered by BMLS in accordance with these Compliance Guidelines. All complaints of unethical conduct or requests for arbitration shall be referred to the Association with which the Participant holds primary membership or the Association within which the Participant applied for MLS Participation. Any complaint that encompasses both a violation of the MLS Rules and Regulations and unethical conduct or requests for arbitration will be separated into two issues and each handled by the appropriate adjudicator.

SECTION 1: The Violation Process

Complaint:

Alleged violations of the BeachesMLS Rules and Regulations must be reported in writing and may be initiated by:

- a. MLS Participants
- b. MLS Subscribers
- c. Staff of MLS
- d. Any other person

How to Report Alleged Violations:

- a. For Listing Violations: Click on the “Report Violation” button in Flexmls or Matrix
- b. By email to compliance@BeachesMLS.com
- c. By US Mail to MLS at 1 Harvard Circle, Suite 102, West Palm Beach, FL 33409

Notice of Violations:

If MLS staff believes after preliminary inquiry that a violation has occurred, MLS staff will provide written notice to the respondent and to any subscriber(s) involved setting forth the alleged violation and subsequent penalties.

Written notice may take the form of electronic mail, fax, or U.S. Mail. Email notifications are effective on the date of transmission. Mailed notifications are effective two days from the date of mailing.

Definitions:

Participant – licensed qualifying broker of a participating office or licensed and certified general appraisers. Please also see Section 2.1 of the BeachesMLS Rules and Regulations.

Subscriber – (MLS users) - non-principal brokers, sales associates and licensed and certified appraisers affiliated with Participants. Subscribers also include affiliated unlicensed administrative and clerical staff, personal assistants, and individuals seeking licensure or certification as real estate appraisers who are under the direct supervision of a BMLS Participant or the Participant’s licensed designee.

Respondent – the party that receives a violation from the MLS

Complainant – the party that files a complaint against a participant or subscriber of the MLS

Letter of Warning – a letter to a participant or subscriber advising of a lack of professional conduct and warning that future similar conduct could result in more severe sanction.

Letter of Reprimand – a letter to a participant or subscriber advising of a lack of professional conduct and advising that the letter is to be construed as an official reprimand.

Courtesy Notice – a communication (via email) sent to the participant, subscriber and office administrative informing them of a potential violation and allowing them a grace period to correct or alleviate the violation and avoid any penalties

Grace Period – time allotted in the courtesy notice to correct or expunge a potential violation and avoid a penalty

SECTION 2: Listing Violations

When a Listing Violation is confirmed to have occurred, the BMLS staff will send a written Courtesy Notice to the Participant, Subscribers, Listing Agent and/or Office Administrators. The violation(s) specified in the Courtesy Notice must be corrected within the grace period indicated on the Courtesy Notice. After a courtesy notice timeframe has been exhausted and an administrative fee is assessed; if the listing participant and subscriber remain unresponsive for three (3) calendar days, the correction will be made by staff on their behalf when applicable and an administrative fee will be assessed at double the original amount.

A listing violation is any act, entry of (or lack of) information appearing in the MLS Database in violation of the MLS rules, including, but not limited to the following:

- a. Failure to enter a listing in the correct AREA as identified in the MLS Database map
- b. Failure to report the correct sale price, selling office, and selling agent on a closed listing
- c. Failure to disclose a Dual/Variable Rate Commission
- d. Failure to correctly report all required fields on the Listing Input Form
- e. Failure to enter a specific dollar amount greater than “0”, a percentage rate greater than “0”, or a combination thereof into at least one of the Commission Fields
- f. Failure to provide BMLS with any documentation requested by BMLS staff within two (2) business days of the date of the MLS Courtesy Notice
- g. (Rule moved to Conduct Violation 4.2j Nov 2019)
- h. Failure to make any required change of listing within the specified time frames as set forth in the Rules and Regulations
- i. Failure to input listing within two (2) business days of receipt of valid listing agreement

- j. Failure to submit, within two (2) business days of request, a copy of the listing agreement and/or supporting documentation which shows the seller's request to withhold the listing from the MLS Database
- k. (Rule moved to Conduct Violation 4.2j Nov 2019)
- l. Incorrectly entering a listing as Waterfront when the property does not have deeded waterfront access
- m. Failure to identify a Limited Service listing in the appropriate field
- n. Input of mobile or manufactured homes, unless being sold as part of real property or entered as a rental
- o. Input of Bonus or Compensation information in any field not expressly designated for such information
- p. Unauthorized dissemination of personal seller information including, but not limited to, alarm codes, gate codes, "children at home," "elderly at home". BMLS staff may remove personal information from the listing.
- q. Input of derogatory words and statements or words and statements found to discriminate on any of the bases set out in the Federal Fair Housing Act and any analogous state and local laws or ordinances. The words or statements may be removed from the listing by BMLS staff.
- r. Entering any information other than the listing agent's name or team name in the Marketing Name field.
- s. Input of a partial rental or room for rent outside of the requirements outlined in Section 3.2.3 of the BeachesMLS Rules and Regulations.

SECTION 3: Listing Violations Penalties

Failure to respond to or comply with a BMLS Courtesy Notice within the grace period designated on the Courtesy Notice carries penalties to the Participant and Subscriber as follows:

1st Notice: Courtesy Notice, \$0 administrative fee assessed.

2nd Notice: Courtesy Notice, \$0 administrative fee assessed

3rd Notice: Courtesy Contact, \$0 administrative fee assessed

4th Notice: \$50 Administrative fee or attend Compliance class within 60 days (must correct listing within 5 days to qualify for free class)

If the Participant and/or Subscriber wish to argue the administrative fee assessed they may request a Hearing pursuant to these Compliance Guidelines. See Section 8 Hearing Procedures. The administrative fee schedule is per offense and billed to the Subscriber. See Section 6 for Repeat Offense Policy.

SECTION 4: Conduct Violations & Penalties

Section 4.1

When any of the following rules are reported or discovered and determined to be in violation, the BMLS staff or its representative will send a written notice of the particular violation to the Participant, Subscriber, and/or the Agent causing the infraction. In addition to the administrative fee assessed, a letter of warning will be held in the Participant or Subscriber's file for two (2) years and a compliance class will be required to be completed for all infractions.

Notices sent by email shall include the MLS/association's request that delivery be acknowledged by the intended recipient within twenty-four (24) hours by return email. If receipt of the notice has not been acknowledged by the intended recipient within twenty-four (24) hours, the recipient will be contacted by telephone to confirm receipt and the recipient's confirmation will be noted in the file. If receipt of notices sent by email cannot be confirmed, the notices will be resent via first class mail.

If the Participant, Subscriber, and/or the Agent wish to argue the administrative fee assessed, they may request a Hearing pursuant to these Compliance Guidelines. See Section 8 for Hearing Procedures. The administrative fee schedule is per offense and billed to the Subscriber. See Section 6 for Repeat Offense Policy.

Note: Conduct Violations must have occurred or have been made known to the complainant within 180 days of filing.

- a) Unauthorized access to listed property, including, but not limited to, failure to follow Showing Instructions.
\$1,000 per occurrence
- b) Advertising "on market" listings from the MLS Compilation without written authorization from the listing broker prior to posting or printing. Advertisements that fail to follow one (1) or more of the advertising guidelines and conditions outlined in Section 4.7 of the BMLS Rules and Regulations.
\$500.00 per advertisement
- c) Unauthorized use, disclosure or sharing of any lockbox key access, shackle code, password, ID, or lockbox system function, including fraudulent requests for codes and access.
\$5,000 per occurrence
- d) If an individual has been granted an exemption from MLS fees because they are a Referral Agent in a Referral Company and it is discovered that that Referral Agent has used the MLS Database, Compilation, or system in any way to list, sell or show property the following fees will be assessed:
A sum equal to the actual fees that would have been incurred retroactive to the effective date of such exemption, not to exceed twelve (12) months.
- e) Failure to respond, failure to respond in a timely manner or failure to provide complete information to a Referral Company audit.
\$500 per occurrence

- f) If it is discovered that a Referral Company or Sister Company of a Participant or Subscriber with a direct or indirect ownership interest in such Referral Company or Sister Company has used, accessed, or displayed the BMLS Database, Compilation, system, or Service, or any portion thereof, in any way.
\$5,000 per occurrence
- g) If it is discovered that a secretary/assistant, or any person with authorized access to the MLS Database, Compilation, system or Service working for or with a Participant, uses their login to assist any individual in a Referral Company or Sister Company or a Referral Agent or any person not authorized to have access to the MLS Database, Compilation, system or Service, the Participant or Subscriber with a direct or indirect ownership interest in the Referral Company, Non-Participating Brokerage or Sister Company will be responsible for the assessed administrative fee. **\$2,500 per occurrence**
- h) Cancelling an existing listing and re-entering it under a new MLS number with changes made to the address or parcel ID for the purpose of resetting the Days on Market and gaining a “New Listing” status.
1st offense \$1,000 per occurrence and 2nd offense \$5,000 per occurrence
- i) If it is discovered that any listing Participant or Listing Subscriber engages in the practice of charging a fee to the buyer without prior written consent of the seller the following administrative fee will be assessed.
\$500.00 per occurrence
- j) Changing address or tax information (to incorrect data) on a new or existing listing for the purpose of manipulating the information, statistics etc. in the BMLS database.
1st offense \$1,000 per occurrence and 2nd offense \$5,000 per occurrence
- k) Unauthorized “sold” sign on a property prior to closing with the exclusion of the listing Participant, Subscriber, or seller.
1st offense \$1,000 per occurrence and 2nd offense \$5,000 per occurrence*
***A warning notification for the 1st offense will be sent if the Participant or Subscriber is a party to the transaction**
- l) Advertising “sold” or “comparable” listings or “statistical reports” from the BMLS Compilation by a Participant or Subscriber without the required disclaimer as outlined in Section 15 of the BMLS Rules and Regulations.
\$500.00 per advertisement*
***1st offense will receive a warning notice and be required to take the Compliance Class**
- m) If it is discovered that a Participant or Subscriber engages in the practice of changing the list price, expiration date, status or any other changes as outlined in Section 3.4 of the MLS Rules and Regulations, without the written permission of the seller the following administrative fee will be assessed.
1st offense \$1,000 per occurrence and 2nd offense \$5,000 per occurrence

- n) If it is discovered that a Participant or Subscriber enters a listing into the BMLS system without a valid listing agreement the following administrative fee will be assessed.
1st offense \$1,000 per occurrence and 2nd offense \$5,000 per occurrence
- o) If an individual has been granted an exemption from BMLS fees because they are a Subscriber with another MLS and it is discovered that that Agent has used the BMLS Database, Compilation, or system in any way to list, sell or show property the following fees will be assessed to the Participant: **A sum equal to the actual fees that would have been incurred retroactive to the effective date of such exemption, not to exceed twelve (12) months.**

Section 4.2

When any of the rules listed below are reported or discovered and determined to be in violation, the MLS staff or its representative will send a courtesy notification of the particular violation to the Participant, and Subscriber. The notice will contain a grace period for which to correct the potential violation and avoid the subsequent administrative fee. If the violation is not corrected or resolved within the timeframe given or in some cases, if it is a repeat offense, an administrative fee will be assessed as outlined in the rule. In addition to the administrative fee assessed, a letter of warning will be held in the Participant or Subscriber's file for two (2) years and a compliance class will be required to be completed for all infractions. After a courtesy notice timeframe has been exhausted and an administrative fee is assessed; if the listing participant and subscriber remain unresponsive for three (3) calendar days, the correction will be made by staff on their behalf when applicable and an administrative fee will be assessed at double the original amount. If the violation is an automatic administrative fee the correction will be made by staff after 2 business days if no action is taken by the agent or broker.

Notices sent by email shall include the MLS/association's request that delivery be acknowledged by the intended recipient within twenty-four (24) hours by return email. If receipt of the notice has not been acknowledged by the intended recipient within twenty-four (24) hours, the recipient will be contacted by telephone to confirm receipt and the recipient's confirmation will be noted in the file. If receipt of notices sent by email cannot be confirmed, the notices will be resent via first class mail.

If the Participant, Subscriber, and/or the Agent wish to argue the administrative fee assessed, he may request a Hearing pursuant to these Compliance Guidelines. See Section 8 for Hearing Procedures. The administrative fee schedule is per offense and billed to the Subscriber. See Section 6 for Repeat Offense Policy.

Note: Conduct Violations must have occurred or have been made known to the complainant within 180 days of filing.

- a) Unauthorized use or disclosure of BMLS login information, the MLS Compilation, or any portion thereof, any listing information or statistical or comparable reports to an unauthorized third party
***\$5,000 per occurrence and MLS forces a password change.**

***unless the person who logged in joins MLS as a subscriber, participant, or assistant within 14 days of the determined violation.**

- b) License Audits – If it is discovered that a Participant has failed to pay BMLS Fees for any licensee listed by the Department of Business & Professional Regulations (DBPR) as associated with a Participant, and is not a subscriber with another MLS, the Participant will be sent a Courtesy Notice and membership application informing them of the licensee in question and requiring the licensee to join within **fourteen (14) business days**. If the licensee does not join within that time the following administrative fee structure will apply to the Participant, depending on the number of outstanding licensees.

1-5 Licensees \$500
6-10 Licensees \$1,000
11-15 Licensees \$1,500
16+ Licensees \$2,000

- c) If it is discovered that any Participant or Subscriber uses another Participant or Subscribers' intellectual property without their prior written consent the following administrative fee will be assessed. Intellectual property includes, but is not limited, to photographs, videos, virtual tours, remarks, logos, trademarks, or service marks.
\$5,000 per occurrence (two business day grace period for the first offense and automatic administrative fee for any offense thereafter)
- d) Input of URLs, Agent, company, or seller contact information (including but not limited to; phone numbers, agent or company names, email addresses, website links, bank contacts, HOA contacts, directive to contact listing agent or owner, etc.) in any field not expressly marked for contact information. This includes, but is not limited to, the public and supplemental remarks fields, the directions field, photos, videos, public documents and virtual tours. Contact information may ONLY be placed in the Broker Remarks field.
\$200 per occurrence (two business day grace period for the first offense and automatic administrative fee for any offense thereafter)
- e) Input of any type of business or personal solicitation for a buyer, seller, or new hire etc. in the listing.
\$200 per occurrence (two business day grace period for the first offense and automatic administrative fee for any offense thereafter)
- f) Any individual who holds an active real estate license and whose name or contact information is entered into the BMLS system must be a BMLS Participant, Subscriber, or Subscriber's assistant with the exception of the owner. Violation of this rule will result in the following administrative fee:
***\$500 per occurrence and MLS forces a password change**
***unless the person whose information was entered into the system joins MLS as a subscriber, participant, or licensed assistant within 14 days of the determined violation**
- g) Represent, suggest, or imply by a Participant or Subscriber that the individual or firm is an MLS, through the name of their firm, their URLs, e-mail addresses, or website addresses, or in any other way as outlined in Section 6.4 of the BeachesMLS Rules and Regulations.
1st offense \$1,000 per occurrence and 2nd offense \$5,000 per occurrence*
***Unless the Participant or Subscriber corrects the violation within fourteen (14) days of notice**

- h) If it is discovered that a Participant or Subscriber enters listing information into the MLS that is inconsistent with the listing agreement, they will be given 48 hours to correct the listing. If not corrected within the grace period, the following administrative fee will be assessed.
\$1,000 per occurrence*
***additional \$2,500 if not corrected within 7 calendar days of initial administrative fee notice**
- i) If it is discovered that a Participant or Subscriber fails to provide in writing affirmation that the cooperating broker's offer was presented to the seller or written affirmation that the seller has waived the obligation to have the offer presented the following penalty will be assessed.
\$1,000 per occurrence (2 business day grace period to provide documentation)
- j) If it is discovered that a Participant or Subscriber fails to amend the status of a listing in the MLS Database within two (2) business days of the change in status the following fine will be assessed.
\$200 per occurrence (two business day grace period for the first offense and automatic administrative fee for any offense thereafter)
- k) If it is discovered that a Participant or Subscribers markets a property to the public without submitting the listing to the MLS within 1 business day, the following penalty will be assessed.
\$1,000 per occurrence (warning notice for first offense and automatic administrative fee for any offenses thereafter)
- l) If it is discovered that a Participant or Subscribers provides access via showings or Open House to a property listed in Coming Soon status the following penalty will be assessed.
\$1,000 per occurrence (warning notice for first offense and automatic administrative fee for any offenses thereafter within two years)

SECTION 5: IDX and VOW Violations

Failure to abide by Section 20 and 21 of the MLS Rules and Regulations, as may be amended from time to time, will result in the following administrative fees:

- a) In the event of a violation of Section 20, an IDX Violation Notice will be sent to the IDX vendor, Participant, or Subscriber when an IDX site is in violation of the MLS Rules for Internet Data Exchange (IDX). A fourteen (14) day grace period will be allotted to allow for corrections to be made. If the corrections are not made within that timeframe the following administrative fee will be assessed.
\$500 per occurrence
- b) In the event of a violation of Section 21, a virtual office or virtual office website (VOW) Violation Notice will be sent to the VOW vendor, Participant or Subscriber and its Participant for failure to abide by the Virtual Office Website (VOW) Rules and Regulations regarding the operation of the VOW or for display violations. A fourteen (14) day grace period will be allotted to allow for corrections to be made. If the corrections are not made within that timeframe the matter the following administrative fee will be assessed.
\$500 per occurrence

An administrative fee may occur for one or more of the items listed below but are not limited to:

1. Display of Content that should not be displayed as set forth in the Violation Notice.
 2. No registration process for consumers.
 3. Transfer of the MLS Compilation to any third party without MLS authorization.
 4. Refusal to allow MLS or any MLS Participant access to Participant or Subscriber's IDX display or VOW for evaluation and compliance.
- c) In the event a violation of Section 5.a or 5.b of these guidelines has not been cured and the Participant or Subscriber has exhausted or waived all opportunities for appeal, or a breach of Section 4 or 5 of the BeachesMLS/RAPB + GFLR Participant Data Access Agreement has occurred, a termination notice will be sent. Ten (10) days after the date of the termination notice, the Participant or Subscriber's data feed will be terminated.

SECTION 6: Repeat Offense

Repeat Offense of Listing Violations:

A repeat offense of any Listing Violation will receive two BMLS Courtesy Notices. The penalty for any repeat offense will be as follows:

2nd offense within 6 months: Mandatory Compliance class

3rd offense within 6 months: \$250 administrative fee and Mandatory Compliance class

4th or more offense within 6 months: \$500 administrative fee and Mandatory Compliance class

This administrative fee policy is per Participant/Subscriber/Appraiser and/or Secretary/Assistant, per offense, and is billed to the Subscriber, unless the offense occurs on the Participant's listing.

Repeat Offense of All Other Violations:

A repeat offense of any Conduct violations or IDX/VOW violations will be assessed the administrative fees as follows:

2nd offense: Double the initial administrative fee: Mandatory Compliance class and a letter of warning to be held on the Subscriber's file for three (3) years

3rd offense: Triple the initial administrative fee: Mandatory Compliance class and a letter of reprimand to be held on the Subscriber's file for three (3) years

4th or more offense: Automatic hearing: Mandatory Compliance class

SECTION 7: Failure to Pay Administrative fees or Take Required Training

Invoices for violations are due upon receipt. Failure to pay an assessed administrative fee for a violation(s) within thirty (30) days of invoice date will result in a late fee. In the event any administrative fees, including any late fees, remain unpaid for more than thirty (30) days of invoice date, all access to BMLS Services is subject to suspension until the account is paid in full.

Failure to attend a required compliance class for a violation(s) within thirty (30) days of invoice date, all access to BMLS Services is subject to suspension until the compliance class has been completed.

SECTION 8: Hearing Procedures

How it Works

Generally, a complaint is filed against a participant, and staff makes a preliminary determination of whether it has any merit. Identification of the complaint may initially take the form of automated “data checking” of the BMLS database. If the staff finds the complaint has merit, the participant will be assessed a letter of warning to be held on their account for one year, requirement of the Compliance class and the administrative fee amount as stated in the Rule. The participant either satisfies the disciplines imposed or requests a hearing. If the hearing panel determines that a violation did not occur, then the participant is no longer required to satisfy the disciplines imposed. If the hearing panel determines a violation did occur the discipline either stands or can be decreased at the hearing Panels discretion. The participant may then appeal to the Association Board of Directors. If the Board of Directors overturns the decision of the Hearing Panel, the imposed disciplines would be removed. If the Board of Directors upholds the decision of the Hearing Panel, the discipline stands. The decision of the Board of Directors is final and there is no further appeal process available through BMLS or the Association.

Note: If a participant fails to follow these guidelines or to submit a request for hearing or appeal within the times specified, the participant forever loses the ability to appeal an administrative fee.

Payment or Hearing Request

Within 20 calendar days after effective notice of a violation, the respondent must either:

- a. Pay the entire administrative fee, or
- b. Make written request for a hearing on the complaint.

A request for a hearing may take any of the forms permitted for, and its effective date is determined by the same means as for, a notice of violation. A respondent’s request for a hearing must include:

- a. a statement indicating the reason(s) for requesting a hearing
- b. proof of correction where applicable;
- c. copies of any relevant documents;
- d. a deposit of fifty percent of the assessed administrative fee if the administrative fee is \$1,000 or under or ten percent of the assessed administrative fee if the administrative fee is over \$1,001. The deposit will be returned if the respondent prevails in the hearing;

If in the judgment of the BMLS staff the respondent’s hearing request shows the respondent’s compliance with all rules and regulations and that the administrative fee was erroneous, BMLS will return the deposit of the assessed administrative fee to the respondent and close the file. In all other cases, staff will schedule a hearing panel.

Hearing Panel Scheduling

Within 10 days of receiving the respondent's request for a hearing and all other required items, staff shall send notice to the respondent proposing 3 hearing dates. The respondent shall notify staff within 5 days of the respondent's 2 preferred dates.

Hearing Panel Composition

The hearing panel shall be composed as provided in Part One, Section 2 of the Code of Ethics and Arbitration Manual.

Representation of the Parties and Witnesses at a Hearing

BMLS may but need not have its legal counsel present at any hearing under these procedures, without the necessity of giving advance notice of the fact. Each party may have legal counsel present, as long as advance notice is provided at least five days prior to the hearing date. Generally, evidence of a rule violation will consist of documentary evidence provided to the panel by BMLS staff. In the event that a complaint originates with someone other than BMLS itself, the complainant and any witnesses necessary to support his or her claim shall give evidence. The respondent may present documentary evidence and may call witnesses to support his or her defense against the claim. Each party shall inform the other(s) of the identities of any witnesses the party intends to call at the hearing at least five days in advance of the hearing. All witnesses shall testify on oath or affirmation.

Hearing Panel Procedures

BMLS shall conduct all hearings and proceedings in accordance with procedure outlined in the Procedural Outline/Chairperson's Script.

If the respondent does not appear at the hearing, the hearing shall proceed, and the panel will make its determination based upon information and documents available to it.

Upon the hearing panel's determination that the respondent has violated the rules and regulations, the panel may impose any combination of one or more of the following disciplines, letter of warning, letter of reprimand, required attendance to an education course/seminar, some, or all of the original administrative fee, and for more egregious or repeat offenses probation, suspension, termination of BMLS rights, privileges, and services.

Upon the hearing panel's determination that the respondent has not violated the rules and regulations, staff shall return to the respondent within 20 days the administrative fee deposit and close the file. Upon the hearing panel's determination that the respondent has violated the rules, but that mitigating factors were present, the hearing panel shall determine what portion of the administrative fee deposit is returned to the respondent.

SECTION 9: Hearing Appeal Procedure

Appeal to Association Board of Directors

Within 20 days after the panel's decision, the respondent may give notice demanding appeal of the hearing panel's determination that the respondent has violated the rules and regulations to the Association Board of Directors. Any such appeal shall be conducted in accordance with procedures provided in the Code of Ethics and Arbitration Manual for the National Association of REALTORS® except where this procedures document or other policies adopted by BMLS provide otherwise.

