



314 N. Goad Springs Road, Lowell, Arkansas 72745
479-770-0241 Phone
www.nwarealtors.org

HEARING AND APPEAL PROCEDURES

FOR VIOLATIONS OF MLS RULES AND MEMBERSHIP DUTIES

REQUESTING A HEARING

A request for a hearing must be filed by using the Northwest Arkansas Board of REALTORS® Petition for Hearing. The Petition is available on the board website at www.nwarealtors.org. The Petition may be filed in person, by mail, or by email. The address for mailing a Petition for Hearing is 314 N. Goad Springs Road, Lowell, AR 72745. If mailed, a petition for hearing is considered filed as of the date of the postmark, which is not necessarily the date the appeal was placed in the mail. Generally, a faxed petition will be considered as having been filed on the date of transmission recorded by the facsimile machine. The fax number for submitting a Petition for Hearing is (479) 365-2124. It is advisable to confirm receipt of petitions submitted via fax. A petition filed by email will be considered filed when received. The address for emailing petitions is cindy@nwarealtors.org.

TIME LIMIT FOR REQUESTING A HEARING

The petition for a hearing must be filed within twenty (20) calendar days after the date that you are notified of the listing violation/fine assessment. Any petition received or postmarked after twenty (20) days will be rejected as untimely filed.

HEARING DATES/TIMES/LOCATIONS AND NOTICES

The Professional Standards committee conducts hearings in person at the board office. The member may waive their right to appearance at the hearing and the committee will hear the issue from the evidence in the record.

When the committee has received documents from staff regarding the violation, it will set a hearing for the earliest practical time and transmit notice of the hearing to all the parties. The notice will set the date and time of the hearing. The notice will also identify, in general, the issues for the hearing.

CHANGES IN HEARING DATES AND TIMES

After the Professional Standards committee has scheduled a hearing, a request for a postponement or other change in the date or time will only be granted for good cause. The subscriber should make the request immediately upon learning of the need for the change. The request should include a clear statement of the reason a change is needed and a reasonable indication of other dates and times during regular business hours the subscriber will be available for hearing.

The request may be filed in person, by mail, or by email. The address for mailing the request is 314 N. Goad Springs Road, Lowell, AR 72745. If mailed, the request is considered received as of the date of the postmark, which is not necessarily the date the request was placed in the mail. Generally, faxed requests will be considered as having been filed on the date of transmission recorded by the facsimile machine. The fax number for submitting requests is (479) 365-2124. It is advisable to confirm receipt of requests submitted via fax. A request filed by email will be considered filed when received. The address for emailing request for postponement is cindy@nwarealtors.org.

DOCUMENTS OR OTHER PHYSICAL EVIDENCE FOR THE HEARING

Physical evidence may include written or photographic documents or other objects, which relate to the case. Any documents concerning the violation which the staff forwards to the committee are included in the evidence of record. The parties may review or obtain such documents before the hearing.

If you have additional written material to present at the hearing, you should provide copies of the documents with your Petition for Hearing.

SUMMARY OF THE PARTIES' RIGHTS AT THE HEARING

As a party at the hearing you have the right:

- to appear and testify in your own behalf,
- to have an interpreter to meet the language/communication needs of a party or a witness,
- to hire and have representation by an attorney or other duly authorized agent,
- to present documents or other physical evidence for the record,
- to examine any documents or other physical evidence in the record and any offered for entry into the record,
- to have witnesses testify for you and to ask questions of your witnesses,
- to question opposing parties and their witnesses,
- to explain or present testimony against evidence harmful to your case,
- to raise reasonable objections to evidence or procedure,
- to make a timely request for continuance when surprised by an issue or unexpected evidence, or because of some other unfair disadvantage, and
- to make summarizing comments (i.e., a closing statement) or to present any further information on the issues before the hearing is closed.

THE DECISION OF THE COMMITTEE

If the Petition for Hearing was timely filed, the committee will reach a decision to affirm the violation or to reverse the violation. The committee may decrease the fine or increase it up to the \$15,000 maximum. The decision of the committee will be based upon the evidence of record. An affirmation upholds the violation. The Board of Directors has adopted a policy to assess an administrative processing fee of \$300 should the committee uphold the violation. A reversal overturns the violation. The Professional Standards Committee Chair will transmit copies of the decision to the parties. If the Petition for Hearing is not filed in a timely manner, the committee will not hear the issue, and their decision is effectively an affirmation of the listing violation.

HOW TO APPEAL THE DECISION OF THE COMMITTEE

The decision of the Hearing Panel can be appealed to the Board of Directors of the Northwest Arkansas Board of REALTORS®. An appeal must be filed by using the Northwest Arkansas Board of REALTORS® Petition for Appeal. The Petition is available on the board website at www.nwarealtors.org. The appeal may be filed in person, by mail, or by email. The address for mailing a Petition for Appeal is 314 N. Goad Springs Road, Lowell, AR 72745. If mailed, a Petition for Appeal is considered filed as of the date of the postmark, which is not necessarily the date the appeal was placed in the mail. Generally, a faxed appeal will be considered as having been filed on the date of transmission recorded by the facsimile machine. The fax number for submitting a Petition for Appeal is (479) 365-2124. It is advisable to confirm receipt of petitions submitted via fax. A petition filed by email will be considered filed when received. The address for emailing petitions is cindy@nwarealtors.org.

The Request for Appeal Form *must* be accompanied by a deposit in the amount of \$300 made payable to the Northwest Arkansas Board of REALTORS®.

If the decision of the Hearing Panel is ratified, the deposit will be retained by the association. If the appeal is upheld, the deposit will be returned to the appellant. If the decision of the Hearing Panel is modified, disposition of the deposit will be determined by the Directors considering the appeal.

A Petition for Appeal may be filed for one or more of the following reasons ***only***:

- Misapplication or misinterpretation of the MLS rule or membership duty
- Procedural deficiency or lack of procedural due process
- The discipline recommended by the Hearing Panel

TIME LIMIT FOR REQUESTING AN APPEAL

The Petition for Appeal must be filed within twenty (20) calendar days after the date of the committee decision. Any petition received or postmarked after twenty (20) days will be rejected as untimely filed.

PARTIES TO AN APPEAL

The appellant and the MLS Administrator are parties to every appeal that addresses a listing violation.

REPRESENTATION

The parties to an appeal have the right to be represented by an attorney or by any other duly authorized agent. However, parties are not required to have professional representation. Each party is responsible for any fees charged for services of their chosen representative.

WITHDRAWAL OF APPEAL

The appellant may request withdrawal of the appeal at any time before the decision is rendered. A request to withdraw must be made in writing.

APPEAL DATES/TIMES/LOCATIONS AND NOTICES

The Board of Directors of the Northwest Arkansas Board of REALTORS® conducts Appeal Tribunals in person at the board office. The appellant may waive their right to appearance at the appeal and the Board will hear the appeal from the evidence in the record.

When the Board has received documents from staff regarding the issue on appeal, it will set the appeal for the earliest practical time and transmit notice of the appeal to all the parties. The notice will set the date and time of the appeal. The notice will also identify, in general, the issues for the appeal.

CHANGES IN APPEAL DATES AND TIMES

After the Board of Directors of the Northwest Arkansas Board of REALTORS® has scheduled an appeal, a request for a postponement or other change in the date or time will only be granted for good cause. The appellant should make the request immediately upon learning of the need for the change. The request should include a clear statement of the reason a change is needed and a reasonable indication of other dates and times during regular business hours the appellant will be available for the appeal.

SUMMARY OF THE PARTIES' RIGHTS AT THE APPEAL

As a party at the appeal you have the right:

- to appear and testify in your own behalf,
- to have an interpreter to meet the language/communication needs of a party or a witness,
- to hire and have representation by an attorney or other duly authorized agent.

SUMMARY OF THE BOARD'S DUTIES IN CONDUCTING THE APPEAL

The Board of Directors of the Northwest Arkansas Board of REALTORS® bears sole responsibility for conducting the appeal hearing. Hearings will be conducted according to Robert's Rules of Order.

A Petition for Appeal may be filed for one or more of the following reasons **only**:

- Misapplication or misinterpretation of the MLS rule or membership duty
- Procedural deficiency or lack of procedural due process
- The discipline recommended by the Hearing Panel

THE DECISION OF THE BOARD OF DIRECTORS

If a Petition for Appeal was timely filed, the Board will reach a decision on the merits of the appeal. The decision of the Board is final and will be based upon the evidence of record after the parties have had a hearing (or a reasonable opportunity for a hearing) on the issues on appeal. An affirmation upholds the violation. A reversal overturns the violation. The Board will transmit copies of the decision to the parties. If the decision of the Board is to dismiss an appeal because it was untimely filed, then the Board decision is effectively an affirmation of the listing violation.