



Tuolumne County Association of REALTORS®



**Tuolumne County Association of REALTORS®
Multiple Listing Service
Citation Policy**

Revised Approved March 2016

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Citation Policy
(California Model MLS Rule 14.3)

The purpose of this citation policy is to ensure the integrity of the MLS including the currency and accuracy of its information. Fines will be issued and processed in accordance with this Citation Policy. The citable offenses and fines are subject to change upon approval of the AOR/MLS Board of Directors. The Citation Policy is in addition to and does not replace the provisions of Section 14 of the C.A.R. Model MLS Rules.

A. For the purpose of the Fine Schedule, the number of violations will be tracked on a calendar year basis. On the first day of each calendar year the violation count for each MLS member will be reset to zero (0). **[Note: while a one (1) year reset period is set forth as the default in this section, it is recommended that MLSs set the reset clock in the range of one (1) to four (4) years; an MLS could also opt for no reset]**

B. A listing that contains one or more violations of the Citation Policy is considered a violation event for purposes of the Fine Schedule regardless of the category or nature of the violation.

C. A listing that contains more than one violation on the same day will be treated as a single violation for purposes of the Fine Schedule. Multiple violations that occur on the same day but are reported separately are treated as a single violation.

D. A violation must be corrected within two (2) calendar days of notice of violation sent to the Violator and/or Responsible Participant. Receipt of notice is presumed to be the sooner of three (3) calendar days after mailing or one (1) calendar day after email or facsimile transmission. Failure to correct a noted violation within the two (2) day time period allotted will result in a new violation for the uncorrected violation with the associated fine for that level of violation. Failure to correct a violation within the two (2) day correction period may also subject a non-conforming listing to removal by the MLS from active display. New violations may be issued for any remaining uncorrected violations until the violations are corrected or the maximum fine is reached as set forth below.

E. The fine amount is determined by the total number of violations accumulated by each MLS member during a calendar year. **[Note: if a different time period from one (1) year is elected in A. above, then that time period should be reflected here]**

F. Fines are due within fifteen (15) calendar days of receipt of a violation notice. Receipt of notice is presumed to be three (3) business days after mailing or one (1) calendar day after email or facsimile transmission.

G. If a Violator believes that a violation notice and fine was issued in error, the Violator may request a hearing in accordance to the procedures set out by their MLS/AOR. Prior to requesting a hearing, the violation must be corrected.

H. Failure to pay assessed fines may result in suspension of MLS privileges as detailed in Paragraph 17.1 of the MLS Rules and Regulations.

I. The MLS Committee and/or the Board of Directors reserves the right, at its discretion, to charge a Participant or Subscriber with rules violations by virtue of the hearing process, including the possibility of additional fees or fines, suspension or expulsion, rather than utilizing the citation process. Thus, the below fines may not be all inclusive. Any Participant or Subscriber who accumulates in excess of 5 (five) violations in one calendar year, unless otherwise specified, may be referred to the MLS Committee and/or the Board of Directors for a review to determine whether or not further discipline and possible suspension of MLS service is warranted.

J. Reporting of violations will remain confidential.

K. The violation fine schedule is as follows:

Tier One:

First Violation: Warning Letter

Second Violation: \$100 or Attend Class in Lieu of Fine (if such class offered by AOR/MLS)

Third and Subsequent Violations: \$ 300.00

If such a class is offered by the AOR/MLS and if the Violator opts to attend a compliance training class in lieu of paying the fine for a Second Violation, the Violator will pay a \$50.00 non-refundable one-time fee and complete the course within a 60-day period. The Violator will be given the opportunity for one make-up session only. Failure to complete the make-up session will result in assessment of the full fine amount set forth for a Second Violation.

As set forth in Section D above, violations must be corrected within two (2) calendar days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier One Offenses are as follows:

1. Non-Completion of Required MLS Orientation Program Within Set Time Allowed [Rule 4.0 (*Orientation*)]
2. Failure of Participant or Subscriber to Notify the MLS of Termination, Transfer, or Addition of Any Clerical Users Affiliated with Participant or Subscriber [Rule 4.3 (*Notice re Clerical Users*)]
3. Failure of Participant to Notify the MLS of Termination, Transfer, or Addition of any Licensees Under Participant's License [Rule 4.4 (*Notice re Licensees*)]
4. Failure to Properly Designate/Correlate License Type [Rules 4.1.3, 4.2.3 (*Redundant Participant/Subscriber Qualifications*)]
5. Failure to Properly Specify Listing Type or Class [Rules 7.2-7.3 (*Listing Type or Class*)]
6. Failure to Update/Change Listing Information [Rule 7.8 (*Change of Listing Information*)]
7. Unauthorized Cancellation/Withdrawal of Listing; failure of ongoing obligation report solds [Rule 7.9 (*Cancellation/Withdrawal of Listing Prior to Expiration*)]
8. Failure to Provide Complete Listing Information [Rule 7.11 (*Detail on Listings*)]
9. Failure to Offer Unconditional Compensation [Rule 7.12 (*Unilateral Contractual Offer*)]
10. Failure to Comply with Auction Listing Requirements [Rule 7.24 (*Auction Listings*)]
11. Failure to Disclose REO Status [Rule 7.27 (*REO Disclosure*)]
12. Failure to Disclose Short Sale Status [Rule 7.28 (*Short Sale Listings*)]
13. Failure to Input Accurate Information [Rule 8.3 (*Accuracy of Information; Responsibility for Accuracy*)]
14. Failure to Timely/Accurately Report Listing Status, Status Changes and Sales [Rule 10.1 Statuses, Rule 10.2 (*Reporting of Sales*)]
15. Failure to Timely Report Cancellation of Pending Sale [Rule 10.4 (*Reporting Cancellation of Pending Sale*)]
16. Wrongful Use of Photographs/Use of Photographs on a Listing Without Proper Authorization [Rule 11.5 (*Photos*)]
17. Misuse of Public Remarks; Failure to Limit Public Remarks to Marketing, Description and Condition of the Property; Wrongful Use of Remarks on a Listing Without Proper Authorization [Rule 12.5 (*Use and Misuse of Remarks*)]
18. Unauthorized Use of Term "Sold" [Rule 12.7 (*"Sold" Signs and Use of the Term "Sold"*)]
19. Unauthorized Advertisement of Listing of Another Broker [Rule 12.8 (*Advertising of Listing Filed with the MLS*), Rule 12.8.1 (*Advertising of Listing in Printed Neighborhood Market Report*)]
20. Unauthorized Use of Statistical Reports, Sold Data or Comparable Reports in Advertising [Rule 12.9 (*Limitations on Use of Information in Advertising*)]
21. Failure to Provide Adequate Informational Notice and/or Disclaimers on Print or Non-Print Forms of Advertising or Other Forms of Public Representations [Rule

12.9 (*MLS Information in Advertising*), Rule 12.15.1 (*Copies to Prospective Purchasers*), IDX Rule 12.16 (s) (*Disclaimer*), VOW Rule Section 12.19.17].

Tier Two:

First Violation: Warning Letter

Second Violation: \$200

Third and Subsequent Violations: \$500

As set forth in Section D above, violations must be corrected within two (2) calendar days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier Two Offenses are as follows:

1. Failure to Comply with "Certification of Nonuse" (back fees owing under Certification to be cumulatively added to citation amount) [Rule 5.1.6 (*Certification of Nonuse*)]
2. Failure to Input a Required Listing; Failure to Disclose Known Additional Property Owner Information [Rule 7.5 (*Mandatory Submission*)]
3. Failure to Provide Signed Seller Exemption; Failure to Submit Compliant Signed Seller Exemption [Rule 7.6 (*Exempted Listings*)]
4. Entry of a Listing as New after Withdrawn without a New or Amended Listing Contract [Rule 7.8 (*Change of Listing Information*)]
5. Failure to Disclose Interest by a Broker Participant or R.E. Subscriber in the Subject Listing [Rule 7.17 (*Broker/Agent as Principal*)]
6. Failure to Remove Expired Listing; Failure to Obtain Seller's Written Authorization before Extension/Renewal [Rule 7.19 (*Expiration, Extension and Renewal of Listings*)]
7. Failure to Disclose Dual Variable Commission [Rule 7.22 (*Dual /Variable Rate Commissions*)]
8. Prohibited Co-Listing [Rule 7.25 (*Co-Listing*)]
9. Violation of DOM/CDOM Calculation [Rule 7.26 (*Days on Market/Cumulative Days on Market Calculation*)]
10. Failure to Provide Appropriate Written Documentation of Listing [Rule 8.2 (*Written Documentation*)]
11. Failure to Correct Incomplete or Inaccurate Information after MLS Notification [Rule 8.3 (*Accuracy & Correction*)]

12. False Representations; Failure to Abide by True Picture Standard of Conduct [Rule 12.10 (*False or Misleading Advertising and Representations*)]
13. Violation of Competency Standard [Rule 12.21 (*Participant and Subscriber Standards of Conduct*)]
14. Failure to Provide MLS-Approved Lockbox [Rule 13.2.2 (*Lockbox Requirements*)]
15. Failure to Timely Remove Lockbox after COE or Expiration/Cancellation of Listing [Rule 13.12 (*Lockbox Removal*)]

Tier Three:

First Violation: Warning Letter

Second Violation: \$500

Third and Subsequent Violations: \$1000

As set forth in Section D above, violations must be corrected within two (2) calendar days of notice. Violations which remain uncorrected subject the violator to the imposition of new penalties and removal of the listing from active display.

The maximum accumulated fine for a single violation may not exceed the top amount of \$15,000 allowed by NAR for assessment of financial penalty. If the maximum accumulated fine amount has been assessed and the violation has not been corrected, the Violator's MLS privileges may be suspended until all accumulated fines have been paid and the noted violation has been corrected.

Tier Three Offenses are as follows:

1. Failure to obtain sellers authority to list in MLS [Rule 8.1 (*Listing Agreement and Seller's Permission*)]
2. Failure to be Physically Present when Providing Access to a Listed Property to Buyers and Potential Buyers [Rule 9.9 (*Physical Presence of Participant or Subscriber*)]
3. Failure to timely notify of DRE or OREA adverse action [Rule 12.1 (*Notification of California Department of Real Estate (DRE) or California Office of Real Estate Appraisers (OREA) Action*)]
4. Unauthorized Use of MLS Information [Rule 12.11 (*Use of MLS Information*)]
5. Unauthorized Sharing of MLS Information and Pass Codes; Use of MLS by Unauthorized Party [Rule 12.12 (*Confidentiality of MLS Information*)]
6. Unauthorized Clerical User Access and Use of MLS Information [Rules 12.12.1, 12.14.1 (*Clerical Users*)]
7. Misuse of Reproduction of MLS Information [Rule 12.15 (*Reproduction*)]
8. Sharing the MLS compilation or portion thereof with any third party vendor not authorized by the MLS [Rules 12.11 (*Use of MLS Information*), 12.12 (*Confidentiality of MLS Information*) and 12.15 (*Reproduction*)]

9. Unauthorized Reproduction of Confidential Fields and Information [Rule 12.15.2 (*Confidential Fields*)]
10. Unauthorized Compilation Downloading or Transmission of Data; Failure to Restrict Access to Authorized Party [Rule 12.15.4 (*Downloading onto Computers*)]
11. Misuse of MLS Data on Public Website; Violation of IDX Rules [Rule 12.16 (*IDX*)]
12. Misuse of MLS Data on Public Website; Violation of VOW Rules [Rule 12.19 (*VOW*)]
13. Unauthorized Sharing of Lockbox Key [Rule 13.2 (*Key Use and Service*)]
14. Failure to Account for Lockbox Key [Rule 13.4 (*Accountability*)]
15. Failure to Obtain Seller's Permission to Place a Lockbox [Rule 13.6 (*Written Authority*)]
16. Unauthorized Entrance into a Listed Property; Failure to Follow Showing Instructions [Rule 13.7 (*Listing Broker's Permission*)]
17. Failure to Report Lost or Stolen Lockbox Keys [Rule 13.8 (*Unaccountable Keys*)]
18. Wrongful Use or Removal of Lockbox Contents [Rule 13.2.1 (*Use of Lockbox Contents*)]

TCAR MLS Citation Fine Schedule	Frequency	Amount
Tier One – 1 st Violation	Warning	\$0.00
Tier One – 2 nd Violation (Option to attend class instead if offered)	One Time	\$100.00
Tier One – 3 rd (and subsequent) Violation	One Time	\$300.00
Tier Two – 1 st Violation	Warning	\$0.00
Tier Two – 2 nd Violation	One Time	\$200.00
Tier Two – 3 rd (and subsequent) Violation	One Time	\$500.00
Tier Three – 1 st Violation	Warning	\$0.00
Tier Three – 2 nd Violation	One Time	\$500.00
Tier Three – 3 rd (and subsequent) Violation	One Time	\$1000.00