



## General Instructions and Procedures for Filing Complaints Regarding the Electronic Lock Box System.

The Electronic Keybox System is a service of Duluth Area Association of REALTORS. Supra is the Electronic Keybox system vendor. The following procedures are to be followed when processing complaints for possible violations of the Common Lock Box Rules.

**Filing a complaint:** All complaints must be submitted in writing to the Association where the respondent (possible rule violator) holds access to and use of the lock box system. The complainant must complete the Common Lock Box Rule Complaint form citing the specific rule(s) that may have been violated.

The completed form is then given to the Association Executive for review. If the evidence presented is clear, strong and convincing, the Association Executive is authorized to make a decision as to whether or not a violation has occurred and to impose sanctions. If necessary, the Association Executive may request a written response to the complaint from the respondent. If such request is made, the respondent shall have 10 days in which to respond to the complaint. The Association Executive will then review the response and make a decision.

In reviewing the complaint, the Association Executive shall:

1. Make certain that the complaint has been filed in acceptable form and that copies of supporting documentation are included with the complaint.
2. Insure that the appropriate parties are named in the complaint.
3. Make certain that the complaint was filed within sixty days after the facts concerning the complaint could have been known in the exercise of reasonable diligence.
4. Make certain that the respondent is a member in good standing and that the Common Lock Box Rule Subscriber agreement has been signed.
5. Determine whether or not litigation is pending on the issue. NOTE: No decision shall be made on a matter pending litigation unless the litigation is withdrawn or notice has been provided that the litigation has been concluded.
6. Be capable of rendering an impartial decision. If the Association Executive feels incapable of rendering an impartial decision on the matter, the AE may refer the complaint directly to the Technology Advancement Committee for a hearing.

**Right to Appeal Decision.** Both the complainant and respondent shall have the right to appeal the decision of the Association Executive. Appeals must be filed in writing within 20 days of receipt of the decision of the Association Executive.

**Appeal Procedures:**

1. The President of the Association shall appoint a minimum of four members to serve as the Appeal Hearing Panel. The members appointed may not be employed by or affiliated with either the complainant or respondent. They may not be related by blood or marriage to either the complainant or respondent. They must be capable of rendering an impartial decision on the matter. Parties shall have the right to challenge appointed appeal panel members. Such challenges must be made in writing and filed with 10 days of notification of date of the hearing. Postponements may be granted if there are extenuating circumstances. Permission can be given by the Chairperson. All parties shall be advised of the date of the rescheduled hearing. All parties should be encouraged to attend the appeal hearing. The

appeal hearing should be scheduled within 45 days of the receipt of the request for an appeal.

2. Recording the hearing: The Appeal Panel shall, and any party (may/may not), at their own expense, have a court reporter or recorder present at the hearing, or may tape record the proceeding, and, if transcribed, shall furnish a copy to the Association.
3. Method and objective of procedure: The Hearing Panel shall not be bound by the rules of evidence applicable in court of law, but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgment as to relevance.
4. Due Process Procedure: The hearing will proceed as follows:
  - (a) Opening statement by Chairperson – cite authority to hear the appeal and explain the reason for the hearing.
  - (b) The reason for the appeal hearing shall be read into the record.
  - (c) The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
  - (d) The parties will be given an opportunity to present evidence and testimony in their behalf and they may call witnesses. The Association Executive shall have the opportunity to be present during the hearing and to provide testimony.
  - (e) The parties and their legal counsel will be afforded an opportunity to examine and cross-examine witnesses and parties.
  - (f) The panel members may ask questions at any time during the proceedings.
  - (g) The Chairperson may exclude any questions which he or she deems irrelevant or argumentative.
  - (h) Each side may make a closing statement. The Appellant will make the first closing statement and the Complainant and/or the Association Executive will make the final closing statement.
  - (i) Adjournment of hearing.
  - (j) The hearing panel will go into executive session and decide the case.
5. Findings in the Appeal Hearing; The findings shall be reduced in writing by the Appeal Hearing Panel. The decision of the Appeal Hearing Panel shall be final and not subject to additional appeal unless the parties can clearly demonstrate due process procedures had not been followed.
6. Parties may be represented by legal counsel. Parties must notify the Association in writing 10 days in advance of the appeal hearing if they intend to be represented by legal counsel.

Payment of fines and records of violations. Fines are to be paid within 10 (ten) days of notification that a violation occurred. In the event of an appeal, the fine still must be paid immediately. If the decision regarding the fine is overturned on appeal, the money paid will be returned at the discretion of the Appeal Panel. Copies of decisions involving rule violations shall be permanently placed in the member's file and provided to all participating Associations.

The Association may publish monthly, quarterly, or annual statistical reports on rule violations either in writing or electronically. Names of violators will not be published.