

REALTORS[®] ASSOCIATION OF NORTHEAST WISCONSIN

MULTIPLE LISTING SERVICE, INC.

BYLAWS

June 2018

REALTORS® Association of Northeast Wisconsin
MULTIPLE LISTING SERVICE, INC.
BYLAWS

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REVISED

6/07/97

7/19/00

08/27/02

05/02/06

08/29/06

12/02/08

02/12/09

09/25/09

02/17/10

05/08/12

06/26/18

**REALTORS® ASSOCIATION OF NORTHEAST WISCONSIN
MULTIPLE LISTING SERVICE, INC.
BYLAWS**

ARTICLE I - NAME

The name of this corporation shall be REALTORS® Association of Northeast Wisconsin, Multiple Listing Service, Inc. (hereinafter, variously, "MLS" or "Corporation"). The Corporation is a wholly-owned subsidiary of the REALTORS® Association of Northeast Wisconsin, Inc. ((hereinafter the "Association"). The Corporation is a Wisconsin for-profit corporation existing under Ch. 180 of the Wisconsin Statutes.

ARTICLE II - OFFICE

A. Principal Office. The principal office of the Corporation in the State of Wisconsin shall be located in the Town of Greenville, Outagamie County. The Corporation may have such other offices within the State of Wisconsin as the business of the Corporation may require from time to time.

ARTICLE III - PURPOSE AND ORGANIZATION

A. Purpose. To provide information management services to the members of the REALTORS® Association of Northeast Wisconsin, Inc. and/or other members of other REALTORS® associations and/or the members of the MLS. A Multiple Listing Service is a means by which authorized Participants make blanket unilateral offers of compensation to other Participants (acting as subagents, buyer agents, or in other agency or non-agency capacities defined by law); by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as a procuring cause of the sale (or lease). (6/18)

1) Authority. The Bylaws of the REALTORS® Association of Northeast Wisconsin, Inc. require for the use of its members that a subsidiary corporation exist to own and operate a Multiple Listing Service (hereinafter the "Service") which shall be a lawful corporation of the state of Wisconsin, all the stock of which shall be owned by the REALTORS® Association of Northeast Wisconsin, Inc.. (6/18)

2) Governing Documents. The Board of Directors of the MLS shall cause any Multiple Listing Service established by it to conform its Corporate Charter, Constitution, Bylaws, Rules, Regulations, and Policies, Practices, and Procedures at all times to the Constitution, Bylaws, Rules, Regulations, and Policies of the National Association of REALTORS®. (6/18)

3) MLS Service Area. The Counties of Brown, Calumet, Fond du Lac, Kewaunee, Oconto, Outagamie, Shawano, Waupaca, Winnebago, shall constitute the primary service area of the MLS. Other areas served by MLS are those counties as are referenced in the MLS Rules and Regulations. (6/18)

Listings outside of the Service Area: Only listings of the designated types of property located within the jurisdiction of the MLS are required to be submitted to the Service. Listings of property located outside the MLS jurisdiction will be accepted if submitted voluntarily by a Participant, but cannot be required to be submitted. (6/18)

4) Fiscal Year. The fiscal year of the Corporation shall end on the 31st day of December in each calendar year. (6/18)

ARTICLE IV - PARTICIPATION

A. Participation. Any REALTOR® of the Association or any other REALTORS® association who is a principal, partner, or corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in the Service upon agreeing in writing to conform to the Rules and Regulations thereof and to pay the costs incidental thereto (herein referred to as "Participant").

However, under no circumstances is any individual or firm, regardless of membership status, entitled to Multiple Listing Service "Membership" or "Participation" unless they hold a current, valid Wisconsin real estate broker's license and offer or accept compensation to and from other Participants, or are licensed or certified by an appropriate Wisconsin regulatory agency to engage in the appraisal of real property. Use of information developed by or published by the Multiple Listing Service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey "Participation" or "Membership" or any right of access to information developed by or published by the Multiple Listing Service where access to such information is prohibited by law.

The REALTOR® principal of any firm, partnership, corporation, or the branch office manager designated by said firm, partnership, or corporation as the Participant shall have all rights, benefits, and privileges of the Service, and shall accept all obligations to the service for the Participant's firm, partnership, or corporation, and for compliance with the bylaws and rules and regulations of the Service by all persons affiliated with the Participant who utilize the Service. Brokers or salespersons other than principals are not considered "Participants" in the Service, but have access to and use of the Service through the principal(s) with whom they are affiliated.

Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with the MLS Participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS Rules and Regulations and computer training related to MLS information entry and retrieval within three (3) consecutive opportunities after access has been provided.

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.

The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation with respect to properties of the type that are listed on the MLS in which participation is sought. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant "actively endeavors during the operation of its real estate business" to "offer or accept cooperation and compensation" only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants.

B. Application for Participation. Application for participation shall be made in such manner and form as may be prescribed by the Board of Directors of the Service and made available to any REALTOR® principal of this or any other REALTOR® association requesting it. The application form shall contain a signed statement agreeing to abide by these Bylaws and any other applicable Rules and Regulations of the Service as from time to time amended or adopted.

C. Subscribers. Subscribers (or users) of the MLS include non-principal brokers, sales associates, and licensed and certified appraisers affiliated with Participants.

D. Access to Comparable and Statistical Information. REALTORS® who are actively engaged in real estate brokerage, management, appraising, land development or building, but who do not participate in the MLS, or Local Association Affiliate Members, are nonetheless entitled to receive, by purchase or lease, information other than current listing information that is generated wholly or in part by the MLS including "comparable information," sold information, and statistical reports.

This information is provided for the exclusive use of REALTORS® and Local Association Affiliate members and may not be transmitted, retransmitted, or provided in any manner to any unauthorized individual, office or firm except as otherwise specified in the MLS Rules and Regulations. REALTORS® and Local Association members who receive such information, either as a Local Association service or through the Local Association's MLS, are subject to the applicable provisions of the MLS Rules and Regulations whether they participate in the MLS or not.

ARTICLE V - SERVICE CHARGES

The charges made for Participation in the Service shall be as determined, and as amended from time to time by the Board of Directors of the Service, and as specified in the Rules and Regulations of the Service.

ARTICLE VI - GOVERNING BODY

A. Organization. The operation and control of REALTORS® Association of Northeast Wisconsin Multiple Listing Service, Inc. shall be vested in its Board of Directors. (6/18)

B. Board of Directors. The REALTORS® Association of Northeast Wisconsin, Multiple Listing Service, Inc. Board of Directors shall consist of nine Directors. The President, President-Elect, Past-President, and Secretary/Treasurer of the Association shall fill four of the nine MLS Director seats. The remaining five MLS Directors (hereinafter the "Directors") shall be appointed by the Association's Board of Directors, acting in their capacity as directors of the MLS's sole shareholder. However, no more than one of the five Directors may contemporaneously serve as both directors of the MLS and the Association. To be eligible to serve as an MLS Director, a candidate must be a primary REALTOR® member of the Association and an MLS Participating Broker or Manager Principal of a company who is participating in the MLS Service. The Directors shall serve staggered three-year terms; provided, however, the initial terms of the Directors shall be decided by the Association's directors so as to provide for future staggering. (6/18)

C. Officers and Executive Vice-President. The President, President-Elect, Past-President, and Secretary/Treasurer of the Association shall serve in the same officer roles for the MLS. The administrative Secretary of the MLS shall be the Executive Vice-President of the Association. (6/18)

D. Executive Committee. The Executive Committee shall include the President, President-Elect, Past-President, and Treasurer/Secretary of the MLS and the Executive Vice-President. The Executive Vice-President shall hold a non-voting position. The Past-President shall have voting rights consistent with his/her rights on the Association's Board of Directors. In the event that two or more members of the Executive Committee are from the same company, only one vote shall be granted per company, with rights to be conferred in the following order: President, President-Elect, Treasurer/Secretary, Past-President. (6/18)

The Executive Committee shall have the power to act in matters of urgency in the name of the Board of Directors between meetings of the Board of Directors provided a record of any such act(s) is provided to the Board of Directors within thirty days. The Board of Directors shall have the power to rescind any such act(s) at the next regular or special meeting of the Board of Directors. The Executive Committee shall have such other specific authority as provided for in these Bylaws, official MLS policy, or as assigned from time to time by the Board of Directors, provided that in every case, such act(s) does not conflict with the provision of these Bylaws.

E. Removal or Suspension of Directors and Officers. Removal or suspension of a Director shall be at the discretion of the Association Board of Directors. Removal or suspension of an Officer from the Association Board of Directors shall be an automatic removal or suspension from the MLS Board of Directors. (6/18)

F. Powers and Duties of Directors and Officers. All directors and officers shall have the powers and duties enumerated in Chapter 180, Wisconsin Business Corporation Law, except as limited, expanded, or deleted hereunder. (6/18)

G. Quorum. A majority of the voting members of the Board of Directors shall constitute a quorum.

H. Informal Action by Directors. Any action required to be taken at a meeting of the Board of Directors, or any other action which may be taken at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof.

I. Loans and Contracts. No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general and/or confined to specific instances.

J. Nominating Process. The nominating process for Elected Directors shall be such as the Association Board of Directors prescribes. (6/18)

ARTICLE VII - MEETINGS

A. Annual Shareholder's Meetings. The annual meeting of the MLS corporation shareholders (consisting of the Board of Directors of the Association, acting on behalf of the Association as the MLS's sole shareholder) shall be held on the date of the first calendar meeting of the shareholder RANW Board of Directors, unless another date is specified in the notice of meeting. The location and hour are to be designated by the Association's Board of Directors. (6/18)

B. Meetings of MLS Directors. The MLS Board of Directors shall designate a regular time and place of meeting. Except as otherwise provided by the Board of Directors, absence from three regular meetings within an elected year shall be construed as resignation therefrom. Other meetings of the Board may be called by the President. Notice of meetings is to be given at least one week in advance. Notice by any reasonable means is acceptable, including but not limited to notice by electronic mail. If a meeting is required with less than one week's notice, any action taken shall be ratified at the next meeting for which proper notice is given. (6/18)

The MLS Board of Directors is authorized to meet in person or by telephone conference or through other electronic communication media so long as all the members may simultaneously hear each other and participate during the meeting. Directors shall be further authorized to vote by electronic mail for such matters that need to be handled between meetings. Votes taken by electronic mail must be ratified at the next meeting of Directors.

C. Special meetings. Special meetings may be called by the President or by the MLS Board of Directors at a duly-noticed preceding meeting. (6/18)

D. Place of Meetings. The MLS Board of Directors may designate the place for the annual meeting and other special meetings.

ARTICLE VIII - SEAL

The corporation shall have no seal.

ARTICLE IX- INDEMNITY OF OFFICERS, DIRECTORS, AND EMPLOYEES

A. The Corporation shall indemnify a Director, Officer or employee who was or is a party or threatened to be made a party to any Proceeding, including any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether with or without merit (other than an action, suit or proceeding by or in the right of the Corporation) by reason of the fact that he or she is or was a Director, Officer or employee of the Corporation, against reasonable Expenses and Liabilities, including attorney's fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such Proceeding, unless the breach or failure to perform constitutes any of the following:

- 1) A willful failure to deal fairly with the Corporation or its members in connection with a matter in which the Director, Officer or employee has a material conflict of interest;
- 2) A violation of criminal law, unless the Director, Officer or employee had reasonable cause to believe his or her conduct was lawful or no reasonable cause to believe his or her conduct was unlawful;
- 3) A transaction from which the Director, Officer or employee derived an improper personal benefit; or
- 4) Willful misconduct.

- B. The termination of any action, suit or proceeding referred to in Article IX(A) by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not itself create a presumption that indemnification of the Director, Officer or employee is not required under Article IX, (A).
- C. Any indemnification under Article IX (A) shall be made by the Association unless there is a determination that indemnification of the Director, Officer or employee is improper under the circumstances because he or she has breached or failed to perform a duty in the manner described in Article IX (A) (1-4). Such determination shall be made by one of the following subject to review by the court which conducted the Proceeding or by another court of competent jurisdiction.
- 1) By the Board of Directors of the Corporation by a majority vote of a quorum consisting of members who were not parties to such Proceeding; or
 - 2) By the Executive Committee of the Corporation by a majority vote of a quorum consisting of members who were not parties to such Proceeding.
- D. The Corporation may, at its option, provide indemnification to agents of the Corporation, including an agent of the Corporation acting on its behalf as a committee, division, or section member or as an appointee of an officer of the Corporation, who are acting within the scope of their duties as such, for Expenses and Liabilities incurred in a Proceeding to the same extent as Director, Officer or employee hereunder.
- E. All capitalized terms used in this Article IX shall have the meaning given to them in Section 180.0850 of the Wisconsin Statutes.
- F. Conflicts of Interest.
Officers and Directors shall promptly disclose all material financial interests and any other circumstances which may result in a material conflict of interest to the Executive Vice-President. If feasible, the disclosure shall be made no later than three days prior to the discussion of any matter relating to the financial interest or other conflict of interest. The President or the Executive Vice President in conjunction with legal counsel shall have the final decision-making authority with respect to the disqualification of a Director or Officer for conflicts of interest. (6/18)

If it is decided that a material conflict of interest exists, the Director or Officer shall be promptly notified of the decision. If the material conflict of interest relates to a matter which is the subject of current or upcoming discussion, the Director or Officer shall not: 1) Participate in the discussion of the matter without full disclosure of the material conflict of interest prior to participation in the discussion; 2) Vote on any matter for which the Director or Officer has a material conflict of interest. The Board may ask Directors with material conflicts of interest to leave the meeting during discussion of the matter giving rise to the conflict. The Board minutes should state which Directors or Officers were present for the discussion, the content of the discussion and any roll call of the vote.

If the material conflict of interest is of an ongoing nature, the Director or Officer shall eliminate the conflict of interest or resign from the Board and/or his or her position as Officer.

An Officer or Director has a financial interest if that person has, or may acquire as a result of the matter being deliberated, directly or indirectly, through business, investment, or family:

- An ownership or investment interest in any entity with which the RANW MLS has a transaction or business arrangement.
- A compensation agreement with the RANW MLS or with any entity or individual with which the RANW MLS has a business arrangement.
- A potential ownership or investment interest or compensation arrangement with such entity.
- Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

Material Conflict of Interest. A material conflict of interest is as a situation where a Director or Officer has a financial, personal or other interest which has a significant likelihood of preventing the Director or Officer from fulfilling his or her fiduciary duties to the RANW MLS.

Fiduciary Duties. Directors shall perform the duties of a Director in good faith, in a manner which is in the best interests of RANW MLS, and with such care as an ordinarily prudent person would exercise in a similar circumstance. Directors shall not take any action which unduly exposes the RANW MLS to liability or use information obtained as a Director inconsistently with the fiduciary duties of the Director or otherwise to the detriment of the RANW MLS.

The conflict of interest policy of the RANW MLS shall be distributed to and subscribed by each Director and Officer annually.

ARTICLE X - RULES OF ORDER

Robert's Rules of Order, Latest Edition, shall be recognized as the authority governing the meetings of the Directors, in all instances where in its provisions do not conflict with the by-laws.

ARTICLE XI - AMENDMENTS

These bylaws can be amended only by the affirmative vote of the shareholders. (6/18)

ARTICLE XII - DISSOLUTION

In the event this corporation shall terminate its activities, the Board of Directors shall supervise collection of all assets, the payment of all liabilities and assignment of remaining assets to the REALTORS® Association of Northeast Wisconsin, Inc.