

## **Appendix 1: Western Arizona Realtor Data Exchange (WARDEX)**

### **Policies and Procedures (latest rev 2/2/2011)**

#### **Policy 15: Fines and Sanctions Appeal (2/11)**

##### **1. Appeal of Fine or Action**

(A) Fine or action by WARDEX may be appealed by the receiving Participant/Subscriber(s), herein referred to as respondent(s), using the WARDEX Fine & Penalty Appeal form along with all substantiating documentation and be submitted to WARDEX within 20 days of WARDEX's violation notice or fine invoice. All evidence and witness statements must be submitted at that time.

(B) Fines and disciplinary action including suspensions assessed for the violation will be put on hold until a decision is issued on the Appeal by the WARDEX Board of Directors.

(C) The appeal form and all accompanying documentation received by WARDEX will be forwarded to the WARDEX board within 2 business days.

##### **2. Investigating Process**

(A) The WARDEX Board of Directors may ascertain any additional information necessary to verify facts relative to the offense. Such investigation may include an inquiry conducted at a regular or special meeting of the directors, provided the respondent(s) receive not less than 10 days written notification of such inquiry. (RR 9.1b)

(B) The Board of Directors will determine if a hearing is necessary or if the fine/sanction is to be removed. The Board of Directors may uphold, reduce or waive the fine or disciplinary action but may not increase the fine or severity of the disciplinary action.

##### **3. Notice of Hearing**

(A) The hearing is to be held at the next scheduled Board of Directors meeting following the decision of the board to proceed with the appeal hearing. The respondent(s) must receive 10 days notice of the hearing. If the next scheduled meeting is within 10 days of the decision date, the hearing must be deferred to the following meeting.

(B) The respondent(s) will be notified of the hearing date by email and certified mail. WARDEX rules require users maintain a valid email which is the service's official form of notice.

(C) The respondent(s) may postpone the hearing date only once and with a 3 business day notice in writing. This may be done via email or hand delivered to the WARDEX CEO and the respondent(s), must have proof of WARDEX's receipt of notice. The hearing will then be held at the next scheduled Board of Director.

##### **4. Failure to Appear**

(A) If the respondent(s) fails to appear for the hearing, the Board of Directors will automatically defer to the fine or disciplinary action initially assessed.

##### **5. Hearing Process**

(A) Directors are not bound to rules of evidence applicable in courts of law, but shall afford all parties a full opportunity to be heard.

(B) The hearing is to be held in closed session.

(C) The respondent(s) may make a statement to the Board of Directors.

(D) Witnesses are allowed into the hearing one by one to give their individual statements and then must leave the hearing. The respondent(s) must leave the hearing until the witnesses conclude their statements. Witnesses must remain available until the final decision is rendered.

- (E) The board may ask questions of the respondent(s). The Board of Directors may request to readdress a witness.
- (F) A quorum, which consists of 6 Board of Directors, is required to hold the hearing.
- (G) The Board of Directors deliberates until a decision is made.
- (H) There is no reimbursement for transportation expenses to or from hearings for respondent(s) or their witnesses.

#### 6. Decision

- (A) The decision of the Board of Directors is final and shall take affect and be noticed to the respondent(s) following the meeting.
- (B) By using the Appeal process the respondent(s) waive their right to bring an action against WARDEX in any court.
- (C) The respondent(s) will be notified by email with two days and by certified mail of the decision of the board.
- (D) The respondent(s) has 30 days to pay any fines assessed. If the fines are not paid, the respondent(s) will be suspended on or after the 31<sup>st</sup> day.
- (E) Any non-monetary disciplinary action assessed against the respondent(s) will be effective immediately.