

## **RIGHT OF APPEAL**

The Appeal Process is outlined in AREA Rule 13 - Appeals.

The only person who may appeal a decision of the Hearing Panel is the person who was charged at the hearing. A charged party may only appeal those charges which were laid against them. An Applicant cannot appeal the charges or decision rendered against a Respondent from an Inquiry Hearing for example.

### **Twenty Days to Appeal**

Upon receiving the decision letter from a hearing, the charged party has twenty days to appeal the decision.

AREA will keep the file open until they receive a letter from the charged party stating that they do not wish to appeal the decision, or twenty days have passed since the Hearing Panel decision was issued. At that time, it is concluded the charged party has accepted the decision and the file is then closed.

### **Grounds of Appeal**

To appeal a decision, the charged party must submit a written notice of appeal to AREA, it must include:

- 1) The grounds of appeal per AREA Rule 13.02;
- 2) A \$500.00 filing fee via cheque to AREA;
- 3) Notice stating whether the Appellant will have legal counsel present at the Appeal.

Once the required information is received, the charged party is now referred to as the Appellant and will proceed to an Appeal Hearing.

Filing Fee cheques are to be mailed to:

Alberta Real Estate Association  
Suite 217, 3332 20 Street SW  
Calgary, AB T2T 6T9

The cheque and written notice of appeal must be date stamped and sent prior to the twenty-day appeal period expiring.



### Reasons one can appeal

The Appellant can only appeal the Hearing Panel's decision on one or more of the following grounds:

- a) The Professional Standards Committee misapplied or misinterpreted Provincial MLS® System Listing and Practice Rules for Alberta REALTORS®, Bylaws, REALTOR® Code, Standards of Business Practices; or
- b) There was a procedural deficiency or lack of procedural due process in the initial Hearing; or
- c) The penalty imposed.

### An appeal is not a re-trial

The Appellant will not be allowed to introduce any new evidence or bring any witnesses to the Appeal Hearing. The Appeal Hearing is to be decided solely on the evidence and the materials contained in the record of the previous hearing.

### You will get a copy of the same evidence presented to the Hearing Panel at your previous hearing

The Appellant and Hearing Panel, will be provided with the following, a minimum of fourteen days prior to the hearing:

- a) What the Appellant was charged with;
- b) The written reply, if any;
- c) All notices sent to the parties by AREA and/or the Hearing Panel;
- d) The Appellant can request any transcript or other summary of the evidence of the Hearing, including any tape recordings of the proceeding, and it will be provided;
- e) All Exhibits entered into evidence at the Hearing; and
- f) The decision of the initial Hearing Panel including any reasons for the decision.

### The Hearing

Members of the Appeal Hearing Panel will be different individuals than those who performed the investigation and sat on the initial Hearing Panel.

The Appellant will give testimony under oath or affirmation based solely on his/her grounds for appeal and cannot introduce any new unauthorized evidence.

The Hearing Panel will ask any questions they may have and the Appellant will then be given an opportunity to make a final statement before adjournment.

### What to expect

The Hearing proceedings include the following:

- a) The Recording Secretary will take the oaths or affirmations of those participating in the Hearing.
- b) The Chairperson will state for the record what the Hearing is about, including the Appellant's grounds for appeal, as set out in the Notice of Appeal;
- c) The Appellant will present his/her case based solely on his/her grounds for Appeal, without introducing any new evidence and has the onus of establishing that his/her Appeal should be allowed;
- d) The Hearing Panel is entitled to ask questions of the Appellant; and
- e) The Appellant will be allowed to make a summary statement.

### Appeal Hearing Decision

The Hearing Panel makes its decision, including the disposition of the filing fee, based on the materials contained in the Record of Hearing and having regard to the Appellant's submission.

The Hearing Panel can reach the following decisions:

- a) Dismiss the Appeal;
- b) Amend the decision of the initial Hearing Panel;
- c) Remit the matter back to the Professional Standards Committee for a new Hearing in whole or in part and, at their discretion, by a differently constituted Hearing Panel; and
- d) Impose any of the penalties that the Professional Standards Committee has the authority to order, as specified in AREA Rules, AREA Bylaws and the REALTOR® Code.

The Appeal Hearing Panel has the right to alter the amount or extent of any penalty ordered by the initial Hearing Panel.

The decision of the Appeal Hearing Panel is final and binding and will be communicated in a decision letter to all parties within ten business days after the conclusion of the hearing. The decision of an Appeal Hearing Panel cannot be appealed.

The file is then closed, any penalties, should there be any, are posted to the Appellant's AREA file and the disciplinary action must be communicated to The Real Estate Council of Alberta by the Appellant pursuant to the Real Estate Act Rules Section 40(1)(b).



**AREA**  
Alberta Real Estate  
Association

## PROVINCIAL ADMINISTRATIVE JUSTICE PROGRAM

### What happens if the Appellant does not attend the scheduled Appeal Hearing?

Barring sufficient cause, the appeal will be dismissed, and the initial decision of the Hearing Panel will be the final decision.