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GENERAL INFORMATION FOR FILING COMPLAINTS AGAINST ARKANSAS REAL ESTATE BROKERS, SALESPERSONS, AND TIME SHARE DEVELOPERS

The Arkansas Real Estate Commission is responsible for investigating complaints against licensed Arkansas real estate brokers or salespersons. This Commission is also responsible for activities of developers involved with selling time-share intervals. A person may file a formal complaint with the Commission if it is believed that a broker, salesperson, or person representing a time-share project has not conducted himself or herself properly in an Arkansas real estate transaction. However, the Commission's authority is limited to the content of the Arkansas Real Estate License Law, the Arkansas Time-Share Act, and Commission Rules.

A complaint should contain only facts and allegations relating to the activities performed by the real estate broker, salesperson, or by a person who is representing a time-share project.

After a complaint is received by the Commission, it is reviewed for the purpose of determining if the alleged activities performed by the broker, salesperson, or the person representing a time-share project are activities over which the Commission has legal authority.

The Commission can take action against a broker, salesperson, or a person representing a time-share project only if that person has violated provisions of the Arkansas Real Estate License Law, the Arkansas Time-Share Act, or Commission Rules. If the subject matter in the complaint does not appear to be within the Commission's authority, the complaint may be dismissed without investigation.

If the review indicates that the subject matter of the complaint is a matter about which the Commission does have legal authority, an investigation of the complaint is begun. A copy of the complaint is sent to the person against whom the complaint was filed. After that person, who is known as the "respondent", is given an opportunity to reply, the complaint is investigated. A commission investigator may need to interview the person who filed the complaint and may also need to interview anyone else who might have information about the real estate transaction being investigated. For that reason, the person who files the complaint should show on the complaint form a telephone number at which the investigator can reach him or her during business hours. After an investigation is completed, if there is insufficient proof of a violation of the License Law or Rules, the Executive Director of the Commission will dismiss the complaint.

If the investigation establishes that there is sufficient proof of a violation, the Executive Director will schedule a disciplinary hearing which will be conducted by the members of the Real Estate Commission. There are five commissioners, three of whom are active in the real estate business. The fourth member represents consumers, and the fifth member represents elderly consumers. Their names appear on the front of this letter. If a hearing is scheduled, the complainant would probably be called to testify under oath at the hearing, which would be held in the Arkansas Real Estate Commission Building, in Little Rock, Arkansas. Other persons also could be called to testify.

If it is determined at such a hearing that a violation of the Real Estate License Law or Commission Rules has been committed, the commissioners may impose sanctions against the real estate licensee, or, revoke or suspend a time-share developer's registration.

The Real Estate Commission maintains a Recovery Fund which, under certain circumstances, can be used to reimburse persons who have suffered financial loss because of violation of the Arkansas Real Estate License Law or Commission Rules by a real estate broker or salesperson. The maximum amount which can be paid to the aggrieved party(ies) is \$25,000.00 for one violation or continuing series of violations: See A.C.A. § 17-42-401 et seq.

If the complainant feels that he/she has been monetarily damaged as a result of the broker's or salesperson's actions, the complainant has the right to request a recovery fund hearing. However, a recovery fund hearing can be held only if the Commission has decided in a disciplinary hearing that a violation of the License Law and/or Commission Rules has occurred.

HOW TO FILE A COMPLAINT

A complaint form is enclosed. Processing a complaint can begin after this form has been filled out, and naming an individual licensed real estate sales agent(s) and/or broker(s), and signed in the presence of a notary public, and after the original copy is filed in the Commission office. When a complaint is filed, the person filing it should attach a copy of each contract or legal instrument which contains information about the real estate transaction described in the complaint. Examples of material which should be furnished are: listing contract, offer and acceptance agreement, contract for sale, and closing statement.

Title II of the Americans with Disabilities Act provides comprehensive civil rights protection for qualified individuals with disabilities. State and local governments may not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.

If an individual feels his or her ability to follow the above procedure is impaired by a disability, that person should contact the Arkansas Real Estate Commission Investigations Department for additional information.