

Advertising Regulations

3 hours/ 3 Core NJ CE Credits

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Note:

This presentation is a compilation of the most important regulations pertaining to real estate advertising. See list of references on the last page. Interpretation of the regulations is done by the each enforcement authority associated to the regulation.

Note that this presentation does NOT discuss your individual broker potential additional requirements. Nor does it replace your need to review, interpret and understand the regulations yourself.

Make sure you review your company specific requirements, and any questions you have regarding your own advertising should be directed to your broker/ manager.

**This handout is for your information only. Please do not share, copy, distribute.
Thank you!**

Advertising in real estate

Where is advertising being done?

- Print media
- MLS
- Websites – personal, company and other
- Social media platform
- Audio/video
- In person

Purpose of advertising:

- Marketing a property
- Promoting yourself
- Providing real estate information (content marketing)
- Developing business
- Other...

When are you considered advertising?

Anytime, anyplace you are making sure people know you are in real estate or discussing properties for sale/ for rent, the condition of the market, etc.

Where are the regulations?

Reminder: enforcement (interpretation and penalties) is done by each agency responsible for its regulations

State Regulations:

- The NJ Real Estate License Laws 45:15-17
- The Rules and Regulations of the NJ REC, NJ Administrative Code, 11:5-6.1
- Bulletin NO. 10-03, NJ Real Estate Commission, Rebates of Real Estate Commissions, February 5, 2010,
- NJ Law Against Discrimination

NAR/NJAR:

- The NAR Code of Ethics
- NAR Trademark regulations
- Rules and Regulations for the NJAR Circle of Excellence Sales Award

MLS Regulations – see your MLS for details, including specific IDX agreement if applicable

Federal Regulations:

- Federal Fair Housing Law
- Truth in Lending Law (for financial advertising)
- CAN-SPAM Act

Don't forget your broker's policies!

The rules

Broker's role

Always keep in mind: the broker has the responsibility of approving and authorizing all advertising
11:5-6.1 (a):

Broker information:

- Always include the broker's business name on all forms of advertising (in larger print or in a more prominent place), *11:5-6.1 (b), SP 12-5*

For franchises *11:5-6.1 (j)*

- When using a franchisor name, the regular business name always has to be clearly indicated
- Franchises have to include “**each office is independently owned and operated**” except for sale signs, spot ads, business cards and internal advertising

True representation

- Refrain from: *11:5-6.1 (r)*
 - False advertising
 - Misleading and deceptive claims
 - Misrepresentation
- Be honest and truthful *COE Article 12*

- Present a true picture *COE Article 12*
The requirement of presenting a true picture covers such practices as:
 - Unauthorized framing of sites
 - Manipulating site content
 - Deceptive use of meta tags, keywords, diverting internet traffic, etc.
 - Choice of URL
- Only use trade names, insignias, logos, etc.. when permitted by law and make sure you follow the rules associated with the use of those items. *11:5-6.1 (j), SP 12-13*

No discrimination

- Discriminatory advertising is not permitted
- The reader should not perceive the ad as discriminatory
- A good practice is to describe the property, not the people or a behavior – for example, it is safer to be 2 blocks from the train station than walk to the train station
- If people are used in ads, they should be diverse (age/race/gender, etc)
- No steering

Personal information

Names/ status:

- A licensee always has to indicate his/her licensed name (legal name) **and** the broker's business name
- Make sure status as a real estate professional is clear, *11:5-6.1 (c), COE Article 12*
- Refer to your license status with the proper terminology *11:5-6.1 (e)*
 - salesperson, sales representative, sales associate, REALTOR-ASSOCIATE®
 - Broker-salesperson, broker-associate, associate broker, REALTOR-ASSOCIATE®
 - Broker, REALTOR®
- It is permitted to advertise that you have been licensed by the NJ REC but you then need to include the words "Licensure does not imply endorsement" *11:5-6.1 (p)*

Phone numbers *11:5-6.1 (d)*

- Advertising any phone number or email address of an individual licensee also requires including the office phone number
- Always identify the various phone numbers, such as home, res., cell, fax,...
- "Home office" reference is NOT acceptable

Membership in an MLS: *11:5-6.1 (k)*

Always indicate the full name of the multiple listing service, except on:

- business card,
- for sale signs, business signs
- spot ads

Use of REALTOR®

- Using the trademark name should be considered as indicating membership in NAR
- Preferred use is in capital letters with ®: REALTOR®, REALTORS®, REALTOR-ASSOCIATE®
- Some additional rules:
 - Do not use with descriptive words or possessive
 - Separate by punctuation when associating with a name
- In a URL or an email address, you can use with a name

Advertising properties

General information:

- Always include the **municipality** of an advertised property *11:5-6.1 (h)*
 - Exception: ads under municipal headings
- If advertising a property listed by another broker, you must obtain the written consent of the listing broker first *11:5-6.1 (n), COE SP 12-4*
- Listed properties cannot be advertised by third parties (such as mortgage brokers)

Status:

- Cannot advertise **sold** until the property has closed *11:5-6.1 (o) SP 12-7*
- From the end of attorney review to the closing, a property shall be advertised **under contract**
- Coming Soon:
 - No marketing of a property can be started without a written agreement, ie listing agreement
 - Follow MLS Rules regarding delayed showings
 - If showings are not permitted during a certain period, **no one** can look at the property
 - If listed with a “waiver of broker cooperation”, it is available, not coming soon

Advertising financial terms 11:5-6.1 (f and g) TIL

- Any financial advertising has to include “to a qualified buyer”
- If the advertising gives specific dollar amounts, add the terms “approximate” or “estimated”
- Maintain proof for 12 months
- If the advertising includes mention of specific amounts of down payment, installment payments, finance charge or loan repayment period, then the ad also has to include information on the total loan amount, required down payment, installment amounts, all finance charges, APR and the total of all the payments *TIL*

Compensation, rebates, free items

Commission amounts *11:5-6.1 (q)*

- If advertising a commission rate, you also must add: “In New Jersey commissions are negotiable”

Rebate advertising – *Bulletin No 10-03*

Only brokers can offer rebates to buyers.

When advertising the rebate, the broker needs to include the following information:

- A disclosure concerning the purchaser’s obligation to pay any applicable taxes for receipt of the rebate
- A notice that the purchaser should contact a tax professional concerning the tax implications of receiving the rebate

Free offerings *11:5-6.1 (m) COE SP 12-1*

Offering free or discounted products or services can be done as long as the following rules are abided by:

- A licensee cannot offer any free product or service as part of a lottery, contest, game or drawing
- The consumer cannot be required to enter into any contract in return for a free product or service
- Licensees can offer free CMAs with proper statement that the CMA is not an appraisal and the free CMA does not obligate the owner to list
- Items of token value (\$5.00 or less) are acceptable as giveaways
- When you offer a free product or service, the licensee needs to provide a written disclosure including:
 - No requirement to enter into a contract to benefit from the promotion
 - What is required from the consumer to qualify (attend a listing presentation, informational session, etc.)
 - When services/ products will be delivered
- Disclosure has to be made before any action from the consumer
- Licensee must disclose if being paid or is receiving any compensation