

SPOKANE ASSOCIATION OF REALTORS
MLS Participant's Meeting/Breakfast
July 7, 2016

WASHINGTON STATE
DEPARTMENT OF LICENSING

- 1. ADVERTISING GUIDANCE FOR REAL
ESTATE LICENSEES**
- 2. UPDATE ON AUDIT REQUIREMENTS**

1. Advertising for Real Estate Licensees

General Advertising Requirements

DOL laws and rules on advertising are intended to ensure that consumers aren't misled or confused about who is providing the services in a real estate transaction. They also make sure that licensees are being accurate about the services they are providing.

GENERAL ADVERTISING CHECKLIST

The Real Estate Commission has developed the following checklist to address problem areas seen most often in real estate advertising. The commission encourages licensees to use the following checklist when developing advertisements, prior to publication.

Advertising Checklist

- ☐ Is the Full name of your real estate firm, as licensed with the DOL, clearly displayed, so it's easy to tell who's offering the brokerage service?
- ☐ If there's an address on the advertisement, is it the address for the brokerage office as licensed with DOL?
- ☐ If there's a licensee's name on the advertisement, is it the name as licensed with DOL?
- ☐ If there a team name that is not an assumed name of the real estate firm, is the real estate firm or assumed name clearly and conspicuously displayed so it's easy to tell who's offering the brokerage service?

Advertising Checklist - continued

- ☐ **If there's an assumed name of the real estate firm on the advertisement, is the real estate firm's name clearly displayed so it's easy to tell who's offering the brokerage service?**
- ☐ **Are the conditions or limitations of any promises or offers clearly indicated on the advertisement?**
- ☐ **Are all comparative claims, business volume claims, honors or awards backed up by a source, date and qualifying information?**

FIRM NAMES

- ❑ Your advertisements must include the ***WHOLE*** licensed name or the ***ASSUMED*** name of your real estate firm. Short forms of your brokerage's name are not acceptable.

If your name is ABC Market Realty, LLC., then you *cannot* advertise as
ABC Realty or Market Realty

- ❑ Advertising must include your ***FIRM'S NAME OR ASSUMED NAME*** in a way that is ***VISIBLE*** and ***LEGIBLE*** for consumers.
- ❑ In the case of radio or audio-only advertising, your firm's name or assumed name ***MUST*** be clearly stated.

Assumed Names

- ❑ An assumed name is an *ADDITIONAL* firm name that's registered with DOL. Once the assumed name is registered, it becomes the property of the firm. Real estate firms can have as many assumed names as they want.
- ❑ An assumed name *CANNOT* be a sole proprietorship, partnership, limited liability partnership, corporation, LLC or other legally recognized business entity conducting brokerage service.

Team Names

A team is a group of licensees led by a managing broker who are working together to provide real estate brokerage services for a licensed real estate firm and designated broker.

Team Name Guidelines

- ❑ Team names can only be used if:**
 - The Designated Broker or responsible Managing Broker authorized the use of the team name.**
 - The firm name is clear and conspicuous. The team name cannot be confusing to the DOL or consumers as to who is offering brokerage services.**

Team Guidelines - Continued

- ☐ Team names should include the word “Team” or a similar word. It should be clear to consumers that there is a relationship between the team and the licensed real estate firm.**
- ☐ As always, your advertising must include your firm’s name or assumed name in a way that is visible and legible for consumers.**

Team Guideline - Continued

- ❑ Like assumed names, team names can't be a sole proprietorship, partnership, limited liability partnership, corporation, LLC, or other legally recognized business entity conducting brokerage service.**
- ❑ And remember!! If you're on a team, the law still applies to you! Being on a team does not change your legal responsibilities. The firm's designated broker is responsible for all teams and their conduct.**

Internet and Social Media Advertising

All internet and social media advertising must include your firm's or assumed name in a way that is visible and legible to the consumer. This requirement extends to all internet and social media advertising including:

- Internet/social media advertising**
- Emails**
- Blogs**
- Online discussion forums or bulletin boards**
- Video blogs on your website or social media page**

Social Media Requirements

- ☐ **For social media advertising, licensees must include their firm or assumed name on their profile screen. As an example – using Twitter or Facebook, only the licensee’s main profile screen is required to contain the licensee’s firm or assumed name. Each “status update” or “tweet” is not required to include the brokerage name.**
- ☐ **Think of this as presenting your business card. You wouldn’t do this every time you met your customer.**

Common Internet and Social Media Guidelines

- ☐ **CRAIGSLIST:** Include your firm or assumed name in a way that is visible and legible on every Craigslist posting.
- ☐ **FACEBOOK:** Ensure that your firm or assumed name is included in a way that is visible and legible as a graphic on the cover photo. Business Pages are best.
- ☐ **TWITTER:** Include your firm or assumed name along with your name on the Twitter bio section.

Common Internet and Social Media Guidelines - Continued

- ❑ YouTube:** On the “Your Channel” section of your YouTube channel, you can put your firm or assumed name in the “About” section. On the “video” page you can put your firm’s name or assumed name in either the “Title,” the “Description,” or in the intro of your videos.

Common Internet and Social Media Guidelines - Continued

- ❑ Pinterest:** Include your firm or assumed name in a way that is visible and legible on every any photo on Pinterest that has to do with the real estate that you are marketing.
- ❑ QR Codes:** Include your firm or assumed name in a way that is visible and legible on the link that is provided by the QR Code.

Photo Enhancing Software

Photo enhancing applications make it easy to touch up and alter photographs in a variety of ways. When using photographs in advertisements, do not alter or enhance the photographs in a way that would misrepresent the property. For example, editing out a garbage can or a car parked in a driveway is okay, however, removing nearby power lines or changing any of the physical characteristics of a property would not be acceptable.

Update on Audit Requirements

Earnest Money Receipts

When a purchase agreement says the buyer will deliver earnest money to the closing agent, both the listing and selling firms are required to have a receipt of delivery, from whoever is holding the funds. It is also the responsibility of the firm and brokers to provide a receipt to all parties when they receive or deliver funds. And, a receipt **MUST** have the date the funds were received, the amount, the source and a purpose for the funds.

Required Transaction Logs

Firms are required to maintain transaction logs and associated documents for all real estate brokerage services for a period of 3 years. They include the following:

- ☐ **Brokers Price Opinions**
- ☐ **Failed Sales**
- ☐ **Agreements signed by only one party**
- ☐ **Rejected Offers**
- ☐ **Listings**
- ☐ **Purchase and Sale Agreements**
- ☐ **Leases**
- ☐ **Business Opportunities**
- ☐ **Short Sales**
- ☐ **Buyer Agency Agreements**

Assumed Names

The firm name as licensed, the DBA, or the assumed name as registered with the DOL must be clearly displayed in all advertisements. ***This means the entire name!*** Initials, abbreviated firm names, or franchise names only are not acceptable. Also, advertisements must include and are not limited to:

- ☐ Signage on building
- ☐ Websites / Social Media
- ☐ Business cards
- ☐ For sale signs/open-house signs/directional signs
- ☐ Any other printed materials

Maintaining Good Records

The following are subject to audits and must be retained in office files for 3 years.

- ☐ Emails
- ☐ Text Messages
- ☐ Faxes
- ☐ Instant Messages
- ☐ Social Media Discussions (Facebook Msgs)
- ☐ Written Correspondence
- ☐ Phone logs of conversations