

Notes from the MAR Legal Hotline

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Q. The Property Transfer Lead Paint Notification says that it must be provided prior to the signing of a purchase and sale agreement, but the buyer agent is demanding it prior to the offer – which one of us is correct?

A. While the instructions on the Property Transfer Lead Paint Notification can be confusing, if you are using a Contract to Purchase, which is a binding offer, then the Property Transfer Lead Paint Notification must be given prior to acceptance of that offer. Conversely, if you practice in an area where parties to a home sale use a non-binding offer and only become bound upon entering into a purchase and sale agreement, the Property Transfer Lead Paint Notification must be provided prior to entering in to the purchase and sale agreement. Keep in mind, the purpose of this Notification is to ensure that purchasers of real property are aware of the risks of lead poisoning and notified of potential hazards in the home they are considering *prior* to entering into a binding contract to purchase that property.

Q. Is a bumper sticker displaying only a team name permissible?

A. No, any advertisement that does not clearly identify the broker is both a violation of Massachusetts Regulations and the REALTOR® Code of Ethics. Remember, advertisements can include everything from billboards to pens to business cards to your email signature, and everything in between. It is important to remember, not only in advertising, but also in the way you conduct your business, that teams are not brokerages and should not be held out as such to the public.

254 CMR 3.00(9) clearly states that Salespersons are prohibited from advertising under their own name and all advertisements must include the name of the real estate broker. Failure to comply with this provision may result in disciplinary action, including suspension or revocation of licensure.

Article 12 of the Code of Ethics governs all REALTOR® advertisements. The Code of Ethics goes a step beyond Massachusetts Regulations by dictating, in Standard of Practice 12-5, that the name of the REALTOR®'s firm must be displayed in a reasonable and readily apparent manner.

There is, however, an important distinction to be made between what is permissible under the Code of Ethics and what is allowed under Massachusetts Regulations. The Code of Ethics allows the required advertising disclosures to be made via a link, or the “one-click” rule as some refer to it. At this time, it remains unclear whether the Board would deem this

“one click” permissible, and, as such, it is not advisable to rely on linking to your advertising disclosure.

Q. I have been having trouble renewing my license with the new online system, where can I get help?

A. The Division of Professional Licensure has transitioned all license renewals to the online platform ePlace. In order to successfully renew your license through the online platform, you must first link your account and license number. All licensees will have an authorization code that was mailed to your address on file. If you continue having trouble renewing your license, you may call the Board at (617) 727-3074.

The Board will be at MAR on March 5, 2019 to assist members with online license renewals. Stay tuned for more information coming soon!

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