

RE41R20: Real Estate Advertising Compliance and the Law

Updated July 2020

1. Methods of Advertising- definition as described 254 CMR 3.00 (9)
 - a. Print Advertising
 - i. Local newspapers
 - ii. Real Estate related newspapers
 - iii. Handout material
 - iv. Business Cards
 - v. Flyers
 - vi. Direct Mail
 - b. On-line Advertising
 - i. Social Media
 - ii. EMail
CAN-SPAM Act of 2003 (Controlling the Assault of Non-Solicited Pornography And Marketing) - sets requirements for commercial email
 - iii. Chat
 - iv. Groups
 - v. Community groups
 - vi. Third Party Syndication
 - c. Multi Listing Service
 - d. Company Website /Agent Website
 - e. Billboards
2. What is the purpose of an advertisement?
 - a. Describe the property being sold, not the people who should buy the property, or the motivation of the seller
 - i. Targeting Marketing could be a violation of the Fair Housing Act.
 - ii. Based on how would the reader interpret the ad?
 - iii. Wording such as: make an offer; reduced; motivated; price reduced; owner anxious; seller relocating may hurt the seller (fiduciary obligations)
 - b. Create loyalty with the clients and customers in the advertisement.
 - c. Market Professional Real Estate Services
3. Fair Housing and advertising
 - a. Cannot use Discriminatory advertising
 - b. Cannot write ads that cause illegal steering.
 - c. Be careful of websites -stick to describing the property-not neighborhood

4. Blind Advertising is Illegal

CMR 254 (3) PROFESSIONAL STANDARDS OF PRACTICE says in paragraph Nine (9) *Advertising. A broker* shall not advertise in any way that is false or misleading.*

**It is understood that Broker refers to the Broker of Record or in a Business Entity it means the BROKERAGE*

(a) Broker Identification. No broker may advertise real property to purchase, sell, rent, mortgage or exchange through classified advertisement or otherwise unless he/she affirmatively discloses that he/she is a real estate broker. No broker shall insert advertisements in any advertising publication or other means where only a post office box number, telephone, facsimile, electronic mail number or street address appears. All advertisements shall include the name of the real estate broker.*

(b) Salespersons Prohibited From Advertising. Salespeople are prohibited from advertising the purchase, sale, rental or exchange of any real property under their own name.

Salespersons who wish to advertise must do so ONLY with the permission of the Broker/Brokerage and must comply with CMR 254 (3):

- Salespersons are NOT permitted to advertise on their own
- Conspicuously Identify the Broker's full name, or in the case of a licensed company, the company's full name in all of the advertisements.
- Team Advertising must conform with all regulations to brokerage (refer to FAQ on mass.gov)
- Websites and links must identify Broker's or Company's full name on all web pages and links. There is NO one click rule.

5. Signs and banners must indicate Broker/Company name

6. Apartment Rentals

- a. No Blind Advertising-ads must fully identify the broker/brokerage/company
- b. No Bait and Switch-properties advertised must exist as required by 254 CMR 7.0
"The apartment advertised may no longer be available for rental"

7. Open House Disclosure

- a. Requirement to disclose relationship at the open house.
- b. Open House Placard must be obviously placed and disclose the agency relationship.

8. Inducements

When advertising inducements the agent must indicate the full identity of the broker and appropriate contact information.

9. Penalties for Practicing without a license.

Whoever, without being licensed acts a broker or salesperson or advertises that he or she is a broker or salesperson shall be punished by a fine of not more than \$500.

Resources:

- Department of Professional Licensure website for FAQ
- Licensing Regulations
- Fair Housing Rules