

ADVERTISING CHECKLIST
for
REAL ESTATE BROKERS
and
BRANCH OFFICE MANAGERS
and
REAL ESTATE AGENTS

I. OVERVIEW

Effective December 1, 2001, a regulation was adopted by the Maryland Real Estate Commission which establishes the duties of real estate brokers and office managers to exercise and provide reasonable and adequate supervision over the activities of real estate licensees affiliated with the broker or with the branch office.

Specifically, the new regulation requires, among other enumerated duties, that:

the broker, branch office manager or a designee of the broker or branch office manager review all advertisements to be placed by licensees affiliated with the broker. [Emphasis added].

“Advertisement” means any oral, written or print and media advertisement, including newspaper and magazine advertisements; correspondence; mailings; brochures; business cards; for sale or for lease signs; sign riders; promotional items; newsletters; telephone directory listings; automobile signage; as well as internet, radio and television advertisement.

All advertisements to be placed by a real estate licensee, including licensed or unlicensed personal assistants, shall be promptly submitted to the broker or office manager (or the designee of the broker or office manager) for review and audit to ensure compliance with established company policy and the requirements of federal and Maryland law, prior to the placement of such advertisements.

Following such review and audit as to each advertisement to be placed, the real estate licensee shall be advised of any inconsistency in such advertisement. Upon notice of such inconsistency, the real estate licensee shall immediately undertake to correct the inconsistency noted and ensure that such inconsistency does not occur with respect to advertisement to be placed in the future.

The following Advertisement Checklist has been prepared to assist brokers, branch office managers and real estate licensees to ensure that all advertisements, as defined above, are in compliance with federal and Maryland law.

II. ADVERTISEMENT CHECKLIST

A. **Name of Licensee.**

Does the advertisement include the full name of the licensee exactly as it appears on their real estate license and not any other name, including a nickname, except as otherwise authorized and approved by the Maryland Real Estate Commission, from time to time?

Yes _____ No _____

(NOTE: Effective October 1, 2002 - a real estate licensee may not use any name in any advertisement except the name which appears on the wall license or pocket card. All advertisements MUST include a first name and a last name. If a licensee wishes to use a nickname as a first name, the licensee may apply to the Maryland Real Estate Commission to trade under a nickname other than the full legal first name upon application to the Maryland Real Estate Commission to trade under a nickname or first name other than the full legal name of the licensee).

B. **Name of Company.**

Is the name of the company “meaningfully and conspicuously” displayed in the advertisement and does it include the full name of the company as it appears on the license of the licensee and NOT SOLELY THE COMPANY LOGO?

Yes _____ No _____

(NOTE: While there is no definitive guideline as to what constitutes “meaningfully and conspicuously,” the general rule is the smaller the name of the company in comparison with the name of the licensee placing the ad, the more likely the Maryland Real Estate Commission will conclude that the company name is not “meaningfully and conspicuously” displayed.

C. **Identified Telephone Number of Broker or Office Manager.**

Does the advertisement include the identified telephone number of the broker or branch office manager?

Yes _____ No _____

(NOTE: Effective October 1, 2004, an associate real estate broker or real estate salesperson may not use an individual telephone number or e-mail address in an advertisement unless the identified telephone number of the broker or branch office manager also appears in the advertisement. As a general rule, you would include the branch office number in a multiple office real estate brokerage company and only

include the broker's telephone number in a single office operation. The general office number is permitted so long as the telephone number is for the office location identified on the license of the real estate licensee and the consumer is given the opportunity to reach the broker or branch office manager either through a voicemail option or the receptionist. Similarly, the telephone number may also be a number which rings directly to the licensee's desk at the office identified on the license, provided the consumer is given the option to reach the broker or branch office manager, either through a voicemail option or receptionist. The telephone number may not be a number that rings on a licensee's home or cellular phone, even if the number gives the consumer the option to be transferred to the office. As to what constitutes "identified" telephone number, the Maryland Real Estate Commission will accept any identification which makes clear the number is the office number including the number with (0) to identify the office or (BOM) to identify the branch office manager number.

D. Team or Group Advertisement.

If the advertisement is in the name of a team or group, does the advertisement include the full name of the licensee as the name appears on the licensee as discussed in II.A., above and does the advertisement include only the name or photograph of a licensed individual or a licensee affiliated with the real estate broker in any group or team advertising? Under current regulations of the Maryland Real Estate Commission, such name or photograph is not permitted if it includes the name or photograph of an unlicensed individual or a licensee affiliated with another real estate broker. Yes _____ No _____

(NOTE: A licensee may not trade solely in the name of a team, group, joint venture, partnership or LLC).

E. Fair Housing Requirements.

Is the equal housing opportunity logo included in all display advertisements, whether print, television or internet, in excess of four (4) inches? The Equal Housing Opportunity logo must be the same size as the largest other logo displayed in the advertisement. **Under federal advertising guidelines, the Equal Housing Opportunity logo**

should never be smaller than one-half inch by one-half inch. Is the equal housing opportunity slogan included in all print advertisement under four (4) inches? In order to fully comply with the law, the equal housing opportunity slogan shall be fully stated in such advertisement as “Equal Housing Opportunity” and not as “EHO.”

Yes _____ No _____

F. Fair Housing - Prohibited Words and Phrases.

Does the advertisement avoid any words or phrases prohibited by HUD?
(List of prohibited words and phrases attached)

Yes _____ No _____

G. Offering of Inducements.

Does the advertisement offer inducements to buyers or sellers other than inducements involving a contest; element of chance; lottery; drawing; or other such mechanism by which a prize or anything of value is to be awarded based upon the luck of the draw or other such limited criteria?

Yes _____ No _____

(NOTE: The offering of compensation or anything of value by way of a contest; element of chance; lottery; drawing; or other mechanism by which a prize or anything of value is to be awarded is **PROHIBITED** by law).

H. Payment of Compensation for Referral Fees.

Does the advertisement avoid any inducement to pay compensation or anything of value to an unlicensed person solely for the referral of a prospective owner, purchaser or tenant

Yes _____ No _____

I. Sale of Property by Licensees.

If the advertisement is for the sale, purchase or lease of real property owned or to be purchased by the licensee, does the advertisement include the fact that the licensee is a Maryland licensed real estate salesperson or licensed real estate associate broker?

Yes _____ No _____

J. Authority to Advertise.

Does the licensee have the written authority of the owner or listing broker to advertise the Property?

Yes _____ No _____

K. Advertising Sold Properties.

If the advertisement includes a compilation of properties sold in a particular neighborhood for transactions in which neither the licensee nor the real estate company acted as either the listing or selling agent, does the advertisement include a disclaimer as follows "Information is from the multiple listing service and neither suggests nor infers that the [name of agent] or [name of company] participated as either the listing or cooperating agent or broker in the sale or purchase of the properties depicted."

Yes _____ No _____

(NOTE: The disclaimer as stated above is suggested to avoid a violation of Article 12 of the NAR Code of Ethics and interpretation of the NAR Code of Ethics which would make such advertisement unethical in that the cumulative effect of the advertisement might lead the reader to conclude that the agent and company placing the advertisement actually participated directly in the sale or purchase of the properties).

L. Truth in Advertisement.

Are the contents of the advertisement factual and true and does it avoid any misstatement or exaggeration of fact?

Yes _____ No _____

M. Coupons.

If the advertisement includes the offer of any type of coupon redeemable by the public, does the coupon have an expiration date and does the coupon specify clearly the terms and conditions which must be satisfied by the public to receive the benefit of the coupon offering?

Yes _____ No _____

If the answer to **ANY** one or ore of the above questions is “No,” the advertisement should be returned to the licensee with a detailed explanation of the required steps to bring the advertisement into compliance with federal and Maryland law.

Date of Review: _____

Name of Reviewer: _____
(Typed or Printed Name)

(Signature)

Advertisement Approved? _____ Yes _____ No

If not approved, state reason: _____

Follow-up Action Taken *(describe here)*: _____

August 1, 2004

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