

Professional Matters Webinar – Dos and Don'ts of Real Estate Advertising Requirements

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This is a PowerPoint created by the Real Estate Council of BC to help you understand how to comply with the advertising requirements for licensees in BC.

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Here are the learning objectives that will be covered

- the rules that regulate advertising
- the purpose of the requirements and how they protect the public interest
- how Personal Real Estate Corporations and Teams are affected by advertising requirements
- how to stay compliant on digital platforms and Social Media
- considerations for Co-listing
- advertising requirements when a licensee is suspended

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Understanding your legislative requirements in BC.

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The Rules and Requirements.

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The advertisement requirements are under the *Real Estate Services Act*. Boards and MLS also have rules but will not be covered because they do not fall under RECBC's jurisdiction.

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There are several rules regulating advertising by real estate professionals, including:

Restrictions and requirements related to advertising generally

4-6 (1) A licensee must not publish real estate advertising unless it complies with this section.

(2) In all cases, the licensee name of the brokerage must be displayed in a prominent and easily readable way.

(3) If real estate advertising identifies a managing broker, associate broker or representative, this must be done

(a) if that person is an individual, by using the licensee name of the individual, or

(b) if that person is a personal real estate corporation or a controlling individual of a personal real estate corporation, by using the licensee name of the personal real estate corporation only.

(4) If real estate advertising includes an office address for the licensee, this must be the address of the related brokerage office.

(5) If the RECBC approves a team name for a group of related licensees, real estate advertising may also identify the group by this team name.

False or misleading advertising prohibited

4-7 A licensee must not publish real estate advertising that the licensee knows, or reasonably ought to know, contains a false or misleading statement or misrepresentation concerning real estate, a trade in real estate or the provision of real estate services.

Advertising in relation to specific real estate

4-8 A licensee must not publish real estate advertising indicating that specific real estate is being offered for sale or other disposition unless the owner of the real estate, or an authorized agent of the owner, has consented to the advertising.

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How do the advertising requirements help protect the public?

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The intention of the advertising rules is to make sure that the public is neither misled nor confused as to who is providing real estate services. The rules are in place to ensure accurate representation about real estate and real estate services.

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The messaging on licensee's advertisements must be clear, accurately represented and not misleading to confuse the viewer as to who is providing real estate services. Any comparative claim, business volume, honour or award should be noted in any advertising as well as the basis of the claim/volume/honour/award, (e.g. the source, date and qualifying information) needs to be included to avoid misleading the audience.

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The Rules states that a licensee must not publish real estate advertising that the licensee knows, or ought to know, contains a false statement or misrepresentation concerning real estate, a trade in real estate or the provision of real estate services. False statements are those that can be shown to be factually incorrect. Generally, there is little room for interpretation in these situations. The assessment of statements that may be misleading, deceptive or inaccurate, however, is more subjective in nature. In general, licensees should assume that all statements in an advertisement will be taken at face value and interpreted based on their plain meaning.

If the licensee's intent is to imply something else, or if the licensee is aware that the statement could be interpreted in different ways, it would be better to spell out the intended meaning in plain language, or to provide some form of disclaimer within the advertisement. Failure to do so could result in the statement being deemed misleading, deceptive or inaccurate. If a promise or offer is made in any advertising, any conditions or limitations must be clearly indicated. Additionally, full written details of the terms, conditions or limitations of the promise or offer must be available.

Photo enhancing computer applications make it easy to manipulate photographs in a variety of ways so when using photographs in advertising materials, licensees must use caution so as to not alter or enhance photographs in any way that would misrepresent aspects of the property. While editing out such items as a garbage can or an automobile parked in a driveway would be acceptable, removing nearby power lines or changing any physical characteristic of a property such that it results in a misrepresentation would not be acceptable. Licensees have been reprimanded for advertising a property, while using the photograph of a completely different property.

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Licensees advertisements' information must be current and accurate. Licensees must ensure that when listings have expired, they are immediately removed from websites. Similarly, if property information changes during a listing period, the information posted on websites should be changed accordingly.

Licensees should not advertise other licensee's listings directly on their own website without permission from the listing licensee and if this permission is given, should not alter any of the listing information without approval of the listing licensee. If linking to an outside database of available properties, it should be clear to consumers which listings are the licensee's and which are not.

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All advertisements must include the full name of the related brokerage. Short forms of the brokerage name are not sufficient. For example, if a brokerage's full name is ABC Hillside Realty Ltd., it is not sufficient to include ABC Realty, or Hillside Realty, as the brokerage name. The name of the brokerage must be displayed prominently and in an easily readable form. This includes, but is not limited to, the following: TV ads, websites, e-mail signature, bus and bus shelters, newspaper ads, billboards and business cards.

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In the case of radio and audio only advertising, the name of the related brokerage must be clearly stated. Some brokerages are part of a larger franchise, where the franchise name may be instantly recognizable. Licensees should remember that the franchise name is not the full name of the brokerage.

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In assessing compliance RECBC will give consideration to the prominence of the brokerages' name in relation to the rest of the advertisement and the relative ease with which a consumer can identify the brokerage. The use of the smaller font, or the name of the brokerage in a colour that blends in with the background might be found to be non-compliant.

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What do licensees need to consider to ensure they are compliant in Personal Real Estate Corporations and Teams?

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A personal real estate corporation's licensee name is its legal name. Advertising that identifies an individual who has a personal real estate corporation must use the licensee name of the personal real estate corporation, not the individual's name. Therefore, it is important for the controlling individual to ensure that the legal name of his or her personal real estate corporation is the name in which they wish to advertise.

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For example, if Robert Vendre has a personal real estate corporation with the licensee name of Robbie Vendre Personal Real Estate Corporation, advertising must refer to Robbie Vendre Personal Real Estate Corporation, not Robert Vendre.

Another example would be where Jie Wu uses the name Jeffrey Wu for advertising purposes and has registered this as his licensee name with RECBC. If he then wishes to licence a Personal Real Estate Corporation, he must choose whether to licence his personal real estate corporation under the name Jeffrey Wu Personal Real Estate Corporation or Jie Wu Personal Real Estate Corporation. If he registers the personal real estate corporation name as Jie Wu Personal Real Estate Corporation, he would then no longer be able to advertise using the name Jeffrey Wu as all advertising must be in the licensee name of Jie Wu Personal Real Estate Corporation.

There is no requirement that the font must all be the same, but the term 'personal real estate Corporation' must be clearly included. Other than on MLS® where MLS generates the term PREC with a footnote, the use of the acronym PREC by a licensee is not permitted on any advertising.

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A licensee may only advertise using their licensee name, a recognizable short form of their legal name, or a name approved by RECBC. Once RECBC has approved a team name for a group of related licensees, real estate advertising may also identify the group by its team name, like for example "The AV Team." The name of the related brokerage must always be included in any form of team advertising.

Registered teams may identify themselves by their team name in advertisements, but the brokerage name must also be prominently displayed and must be easily readable in relation to the rest of the advertisement. Including the name of the brokerage at the bottom of a website or print advertisement, in small type, does not satisfy the requirements. All advertising that includes the names of unlicensed team members must identify them as being unlicensed.

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Can family members with the same last name advertise together? Licensees with the same surname who are engaged by the same brokerage (e.g., “the Bloggs”) may advertise together as “the Bloggs”. Registration of the surname with RECBC is not required.

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How do licensees stay compliant on digital platforms and social media? One of the primary purposes of RECBC’s advertising rules is to ensure that consumers accessing a licensee’s advertising are aware that they are dealing with a real estate licensee and know the name of the brokerage with which that licensee is engaged. This is particularly important for internet and social media advertising given the worldwide exposure of this advertising medium.

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Just as in print advertising, the full name of the brokerage must appear in a prominent and easily readable form on all internet and social media advertising platforms, including each individual page, e-mail, online discussion group or bulletin board, etc. For social media advertising, licensees must include the name of their related brokerage on their profile screen. On Twitter and Facebook, for example, only the licensee’s main profile screen is required to contain the name of the licensee’s related brokerage. It is not required that each “tweet” or “post” contain the name of the brokerage. The rationale is that once a licensee’s profile has been accessed, the name of the brokerage is displayed, and it is known that the individual is a licensee. It is the site visitor, with that knowledge, who then chooses whether to follow the licensee’s “tweets” or asks to become a “friend”, going forward.

This is rather like licensees introducing themselves to a consumer at an open house; they identify themselves as a real estate licensee and present a business card with the name of their brokerage displayed. Licensees do not have to reintroduce themselves at each subsequent meeting if the consumer decides to maintain contact with them, as the consumer already knows, via the first introduction, with whom he or she is dealing.

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The top six advertising platforms where RECBC finds non-compliant licensee advertising are: Craigslist, Kijiji, Facebook, Twitter, Google+, YouTube. RECBC has specific guidelines in our *Professional Standards Manual* for common online and social media websites.

Facebook and Instagram profiles have limited characters but the name of the brokerage/personal real estate corporation/team can be displayed as a graphic in the cover photo. A Facebook page has unlimited characters so it is easy to comply and have the page look very professional. If you are, in any way, using Facebook to 'advertise', a licensee's page and profile must include the name of your brokerage. If you don't want the public (or the RECBC) to scrutinize your Facebook page, be sure your privacy settings are set appropriately.

The Twitter bio section has room for your name plus that of your brokerage. Or you can include your brokerage name in the background of your Twitter page. You do not have to add the name of your brokerage to each tweet.

Like Facebook, licensees on Google + can put the name of your brokerage in the cover photo or in your profile photo. Keep in mind that the posts are the first thing displayed, not the "About" section. So if you don't have your brokerage name in the cover photo or profile photo you will have to have it on all your posts.

On the "Your Channel" section of YouTube, you can put your brokerage name in the "About" section. On the "YouTube" video page licensees can put the name of the brokerage/Personal Real Estate Corporation/team in three areas – the "Title", "Description" or in the intro to your video.

It is important to ensure that the name of your brokerage is prominently displayed and easily readable on any Craigslist and Kijiji posting.

Translations of brokerage names into other languages is not acceptable. The licensee name of the brokerage/licensee/personal real estate corporation/team must be reflected as registered by RECBC.

Your LinkedIn profile must include the name of your brokerage to ensure compliance.

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Specific considerations for co-listing.

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RECBC cautions licensees to think very carefully about the risks involved in this practice before they decide to advertise jointly with licensees from a different brokerage. Licensees from different brokerages who decide to jointly advertise their real estate services and properties that are listed for sale, lease, or rent must ensure that all service agreements (for example, listing contracts) are co-listed by the brokerages. Licensees must ensure that the advertisement clearly shows the brokerage to which they are licensed, so that the public are not misled as to which brokerage you are representing. For open houses, you must ensure that the full legal name of both brokerages are included in any signage outside the property, regardless if only one of the licensees is there.

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What happens when a licensee is suspended?

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When a licensee is suspended, they must stop all advertising and promotions. Licensees need to cancel or remove all print, TV and radio ads, information on their website and social media channels and/or your brokerage's websites and social media, advertisements on buses, bus benches, bus shelters, any signage on cars, and certainly any "for sale" and "sold" signage.

This list isn't exhaustive—there are other forms of advertising not mentioned here, and if licensees have been suspended they should think carefully about all the ways in which they have advertised their services, to be sure that these advertisements are cancelled during the suspension.

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Q&A period.

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This concludes the Professional Matters Webinar Series on the Do's and Don'ts of Real Estate Advertising provided by RECBC.

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Any questions can be email to info@recbc.ca or send your questions directly to a Professional Standards