

19 NYCRR §175.25 Advertising

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(a) Definitions

1. “Advertising” and “advertisement” mean promotion and solicitation related to licensed real estate activity, including but not limited to, advertising via mail, telephone, websites, e-mail, electronic bulletin boards, business cards, signs, billboards, and flyers. “Advertising” and “advertisement” shall not include commentary made by a duly licensed real estate salesperson, real estate associate broker or real estate broker that is not related to promoting licensed real estate activity.

Anything done by a licensee for the purpose of promoting a licensed activity is considered an advertisement

2. “Team” means two or more persons, one of whom must be an associate real estate broker or real estate salesperson, associated with the same real estate brokerage who hold themselves out or operate as a team.

You may have unlicensed individuals operating within a team. They are nothing more than an unlicensed personal assistant and are prohibited from doing any licensed activity. See nysar.com “personal assistants” in the brokers reference manual

3. “Real estate brokerage” means a real estate company represented by a real estate broker.
4. “Logo” means a graphic mark used to identify a real estate broker, associate broker, salesperson or team, but not a photograph of a real estate broker, associate broker, salesperson or team contained in an advertisement.

If the photo contains text etc... it is more than a photo

5. “Property” means real property or shares of stock in a cooperative corporation.

(b) Placement of advertisements

1. Only a real estate broker is permitted to place or cause to be published advertisements related to the sale or lease of property. Advertisements placed or caused to be published by an associate real estate broker, a real estate salesperson or a team for the sale or lease of property listed with or represented by a real estate broker are not permitted except where the property is listed with or represented by the real estate broker with whom the associate real estate broker, real estate salesperson or team placing the ad is associated and said real estate broker approved placement of the advertisement.

Contrary to what many licensees believe, brokers were ALWAYS required to approve advertisements and were the only entity permitted to place an advertisement. As a licensee you operate under the broker's license. You have no right to promote yourself without the broker's permission.

Permission may be granted by the publication of an advertising policy by the broker

2. Authorization

- a. No property shall be advertised unless the real estate broker has obtained authorization for such advertisement from the owner of the property or as hereinafter provided.

See §175.10 Broker's offering property for sale must be authorized
A real estate broker shall never offer a property for sale or lease without the authorization of the owner. This includes exclusives and open listings.
Permission does not have to be in writing

- b. Real estate brokers shall not advertise property that is subject to an exclusive listing held by another real estate broker without the permission of the listing broker.

You are prohibited from "cutting and pasting" other listings to promote for yourself without permission

- c. Proprietary information. Photographs of property that are posted on a real estate broker's website shall not be used or reproduced without written permission from the copyright holder of such photographs.

This includes photos taken for prior MLS listings, Trulia, Zillow, Google Earth, etc.... If you did not take them or were not given permission by the taker or holder, you are in violation!!

(c) Content of advertisements

1. Name of real estate broker. Advertisements shall indicate that the advertiser is a real estate broker or provide the name of the real estate broker or real estate brokerage and either: (i) the full address of the real estate broker or real estate brokerage or, (ii) the telephone number of the real estate broker or brokerage.

There is virtually no change between this and the text of the old 175.25 except it is address or phone number, not just phone number.

2. Name of associated licensees. The advertisement may include the names of one or more associate real estate brokers or real estate salespersons associated with the real estate broker or brokerage placing the advertisement. Where an advertisement includes the name of an associate broker, real estate salesperson or a team, the name of the real estate broker and/or real estate brokerage must also be printed in the advertisement.

Names used in advertisements must be the name that appears on the paper license.

3. Nicknames. Real estate brokers, associate real estate brokers, and real estate salespersons shall advertise using the name under which said real estate broker, associate real estate broker or real estate salesperson is licensed with the Department of State. A nickname may be used in an advertisement provided that the full-licensed name is listed clearly and conspicuously.
4. License type. Except as provided in subsection (d) of this section, advertisements shall correctly and accurately state the type of license held by the real estate broker, associate real estate broker or real estate salesperson named in the advertisement. Licensees may abbreviate the type of license held, provided that such abbreviation is not misleading. The use of the titles, "sales associate", "licensed sales agent" or simply "broker" is prohibited. Real estate brokers, associate real estate brokers or real estate salespersons who have additional titles or designations are permitted to advertise such titles or designations.

There is no such thing as a 'Licensed Realtor'.

5. Contact information. An associate real estate broker, real estate salesperson or team may provide additional contact information, such as a post office box, in an advertisement.
6. Home offices. A residence may be used as an office provided that it is properly licensed by the Department of State.

Licensee is prohibited from listing home address unless it is a licensed branch office. You are prohibited from having customers or clients in your home office unless it is a licensed branch office.

7. Telephone numbers. Notwithstanding subdivision (c)(1) of this section, a real estate broker, associate broker, real estate salesperson or team may provide telephone numbers other than that of the brokerage in an advertisement, provided that the advertisement clearly identifies the type of such other telephone number as desk, home, cell phone, or otherwise.

Broker's number not required unless included as part of (c)(1).

8. Logos. A real estate team, associate real estate broker or real estate salesperson may use a logo different from that of the real estate broker or real estate brokerage with whom they are associated, provided that the name or logo of the real estate broker or real estate brokerage is also printed in the advertisement.

If you use a logo it must not be misleading.

If you use a logo you should also use the broker's logo.

9. Property description. Advertisements shall include an honest and accurate description of the property to be sold or leased. All advertisements that state the advertised property is in the vicinity of a geographical area or territorial subdivision shall include as part of such advertisement the name of the geographical area or territorial subdivision in which such property is actually located. Use by real estate brokers, associate real estate brokers and real estate salespersons of a name to describe an area that would be misleading to the public is prohibited.
10. Guaranteed Profits. Advertisements shall not guarantee future profits from any real estate activity.

(d) Additional requirements and exceptions

1. Classified Advertisements. Classified and multi-property advertisements shall indicate that the advertiser is a real estate broker or brokerage; or provide the name of the real estate broker or real estate brokerage. Classified and multi-property advertisements may omit the license type of any associate real estate broker or real estate salesperson named in the advertisement.

A classified ad is not craigslist. It is a print medium where advertisers pay by the line, letter, word etc... It should not contain pictures or photos. Anything where you pay a flat fee or no fee is not a classified.

2. Business Cards. Notwithstanding subdivision (c) of this section, business cards must contain the business address of the licensee and the name of the real estate broker or real estate brokerage with whom the associate real estate broker or real estate salesperson is associated. All business cards must also contain the office telephone number for the associate real estate broker, real estate salesperson or team.

Office telephone number means the number assigned to the licensee or agreed to be used by the broker

3. Web-based advertising
 - a. Websites created and maintained by associate real estate brokers, real estate salespersons and teams are permitted, provided that said associate real estate brokers, real estate salespersons and teams are duly authorized by their

supervising real estate broker to create and maintain such websites and such websites remain subject to the supervision of the real estate broker with whom the licensees are associated while the website is live.

B(1) is clear that only a broker can place advertisements. Webpages, Facebook, Twitter, etc... are advertisements if used to promote licensed activity. Brokers may use an office policy to achieve this.

“create and maintain” means you control all that appears.

Twitter, Facebook and others...as long as complying with their terms of service must have all your broker’s information on your home page.

- b. Every page of such a website shall include the information required by these rules and regulations. In addition, a link to the broker or brokerage website with whom the associate broker, salesperson or team is associated is required on the homepage of the associate broker, salesperson or team website unless the broker or brokerage does not have a website.

If pages are indexed and I search for homes in Albany the result sends me to page 6 of an agent’s site. All pages must identify the broker pursuant to c(1)

The home page must be linked to the broker’s home page

Do not try to minimize or otherwise hide, or make the brokers information difficult to see. Visitors to the site should not have to scroll down to find the broker’s information.

- 4. E-mail. An initial e-mail from a real estate broker, associate real estate broker, real estate salesperson or team to a client or potential client shall provide the information required by these rules and regulations. Such information may be omitted from subsequent e-mail communications to the same recipient.
- 5. For-Sale Signs. Notwithstanding subdivision (c)(1) of this section, unless otherwise prohibited by local law, any property listed through a real estate broker must be advertised as such, and any signage placed upon such property soliciting the sale or lease of the property must identify the representative broker or brokerage.

Open house or directional signs are not required to comply but if team or licensee’s name or logo is on the sign, so must the brokers

- 6. Advertisements referencing property not listed with broker. Any advertisement that references or includes information about a property that is not listed with the advertising broker or was not sold by the advertising broker shall prominently display the following disclaimer: “This advertisement does not suggest that the

broker has a listing in this property or properties or that any property is currently available.” Such advertisement: (i) shall not suggest, directly or indirectly, that the advertising broker was involved in the transaction and (ii) shall not refer to property currently listed with another broker absent consent provided pursuant to subdivision (b)(2)(b).

This does not permit you to advertise a specific property

Planned Unit Developments, Condo’s, Coop’s

(e) Teams

1. Team name. Team names shall either: (i) include the full licensed name of the real estate brokers, associate brokers or real estate salespersons who are part of said team, or (ii) if the names are not included, the team name must be immediately followed by “at/of [full name of the broker/brokerage].” Team names shall use the term “team.” The use of any other terms besides “team,” such as “associate,” “realty” or “group” is prohibited. The use of the name of a non-licensed individual in a team name is prohibited. For twelve months after the adoption of this regulation, teams that have changed their name to comply with this provision shall be entitled to state in advertisements under their new name that they were ‘formerly known as’ their prior team name.

Names should not be misleading or appear as if they are a stand-alone brokerage

Uses of other terms besides ‘team’ are expressly prohibited.

No full licensed name, must use “at” or “of” broker

2. Unlicensed team members. If any unlicensed individuals are named in advertising for a team, the advertisement must clearly and conspicuously state which individuals are real estate licensees and which ones are not.