

# Real Estate Advertising Rules & Guidance

By

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The Arizona Department of Real Estate (ADRE) and the Arizona REALTORS® frequently receive questions and complaints about real estate advertising. The ADRE also often finds advertising violations during an audit.

**Frequent Advertising Violations:** The most frequent real estate advertising violations have a common thread and include:

- Failure to identify the Employing Broker in a clear and prominent manner.
- Social media posts that constitute advertising and fail to identify the Employing Broker in a clear and prominent manner.
- Branch Office signage that fails to identify the Employing Broker using the legal name as licensed with the Department or the doing business as name in a clear and prominent manner.
- Team advertising that fails to identify the Employing Broker in a clear and prominent manner.

Addressing an advertising violation can be costly and time-consuming – and easily avoided. This article and the accompanying advertising checklist are intended to assist real estate licensees comply with Arizona law and the ADRE Commissioner’s Rules on advertising, as well as answer questions about what is required in real estate advertising.

**Arizona Real Estate Law Defines “Advertising” as:**

- the attempt by publication, dissemination, exhibition, solicitation or circulation, oral or written, or for broadcast on radio or television
- to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in [real property] including the land sales contract to be used, and
- any photographs, drawings or artist’s presentations of physical conditions or facilities existing or to exist on the property.

Generally, advertising does not include (a) press releases or other communications delivered to news media for general information or public relations purposes for no charge; or (b) communications to stockholders as specified in the statute. A.R.S. §32-2101(2). The Arizona Department of Real Estate Commissioner’s Rules, A.A.C. R4-28-502, set forth the rules for real estate advertising.

Consider the following rules and guidelines when advertising real property, either as an entity, an individual or as a member of a real estate team.

**Social Media, Internet Activity, Emails and Texts about Property or Real Estate Services Are Advertising:** The ADRE Commissioner’s Rules specify that the use of an electronic medium, such as the Internet or web site technology that targets Arizona residents with the offering of a property interest or real estate brokerage services pertaining to property located in Arizona also constitutes advertising. A.A.C. R4-28-502(L) (*See also*, A.R.S. §32-2163(D)). Thus, online advertising and marketing via text and short message services (SMS) are subject to the same rules as print advertising.

**The Employing Broker Must be Identified in a Clear and Prominent Manner:** A licensee must ensure that all advertising identifies, in a clear and prominent manner, the employing broker’s legal name or the dba name contained on the employing broker’s license certificate. A.A.C. R4-28-502(E). The employing broker is the corporation, limited liability company, partnership or sole proprietorship licensed as the broker. The employing broker designates a natural person to act as the designated broker. The rule requiring clear and prominent identification of the employing broker ensures that the public is made aware of the person or entity responsible for supervision.

The employing broker’s name must be included in all print, TV, and online advertisements, including email marketing, search engine marketing, classified ads, real estate advertising guides, and other magazine ads.

- The employing broker’s name must be spelled out in its entirety. For example, if an employing broker’s legal or dba name on a license includes “Southeast Valley,” that is what must appear in the ad; simply saying “SE” is not sufficient.
- If the brokerage is an office of a franchise, the office must be identified; simply displaying the franchise name alone is not sufficient.

**Follow These “Clear and Prominent” Employing Broker Guidelines:** Although “clear and prominent” is a somewhat subjective term, it means “readily noticeable,” which may relate to font size or position in relation to the size or placement of the other text in the ad, TV commercial, social media post, email, website, etc.

Consider the following rules and guidelines:

- **Teams:** Teams must comply with all the same advertising rules as individuals. With team advertising it must be clear that the team is a part of the employing brokerage. For example, placing “*The (Team Name) Team*” at the top of the page in large letters with a much smaller brokerage symbol somewhere below is not sufficient. Team signage and advertising that includes unlicensed persons must identify them as being unlicensed.
- **Social Media:** When advertising real property on social media, such as Facebook, Instagram, LinkedIn, and YouTube, the name of the employing broker must be stated. When advertising real property in “thumbnails”, text messages, “tweets”, etc., where stating the name of the employing broker firm is not practical, the advertising information being linked to must include the name of the employing broker.

- **Websites:** The employing broker's name must be visible on the front page of the website and each subsequent page of the website, without the necessity of scrolling down, regardless of the screen size of the computer.
- **Flyers:** In advertising flyers, the employing broker's name may be located on either the top or the bottom of the flyer however the employing broker's name must be clearly legible.
- **Other Promotional Material:** On any other promotional material, the employing broker's name must be on the front page or front of the object.

**“Blind Ads” Are Prohibited:** A licensee must not advertise property in a manner that implies that no salesperson or broker is taking part in the offer for sale, lease, or exchange. A.A.C. R4-28-502(A). In other words, “blind ads”, including advertising a property for sale without the broker and agent's names, in newspapers, mailers, roadside signs, on Craigslist, or otherwise is prohibited.

**“Owner/Agent” Disclosure Is Required:** Any licensee advertising their own property for sale, lease, or exchange must disclose the licensee's status as a salesperson or broker and as the property owner by placing the words “owner/agent” in the advertisement. A.A.C. R4-28-502(B). When advertising your own property, include “owner/agent” in all advertising, including any “for sale” sign.

**Claims Must be Accurate:** A licensee must ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. A salesperson or broker must not misrepresent the facts or create misleading impressions. A.A.C. R4-28-502(C).

**Advertising another Licensee's Listing Must Include the Listing Broker:** A licensee advertising property that is the subject of another licensee's real estate employment agreement must display the name of the listing broker in a clear and prominent manner. A.A.C. R4-28-502(F).

**“For Sale” Signs Require the Seller's Consent and Must be Promptly Removed:** Before placing or erecting a sign giving notice that specific property is being offered for sale, lease, rent, or exchange, a salesperson or broker must secure the written authority of the property owner, and the sign must be promptly removed when authority expires, or upon request of the property owner. ARS§ 32-2153(12); A.A.C. R4-28-502(I).

**An “Acre” Must Refer to 43,560 Square Feet:** A licensee must not use the term “acre,” either alone or modified, unless referring to an area of land representing 43,560 square feet. A.A.C. R4-28-502(H).

**Requirements for Trade Names Must Be Followed:** Any broker using a trade name owned by another person on signs displayed at the place of business must place the broker's name, as licensed by the Department on the signs; and the broker must include the following legend, “Each (TRADE NAME or FRANCHISE) office is independently owned and

operated,” or a similar legend approved by the Commissioner, in a manner to attract the attention of the public. ARS §32-2126; A.A.C. R4-28-502(K).

**Broker Supervision Is Required:** The designated broker must supervise all advertising, for real estate, cemetery, or membership camping brokerage services. A.A.C. R4-28-502(G). An employing broker and a designated broker shall exercise reasonable supervision and control over the activities of brokers, salespersons, and others in the employ of the broker through the establishment and enforcement of written policies, procedures, and systems. R4-28-1103(A)(5).

**Real Estate Schools Must Also Comply with Advertising Requirements:** A school must include its name, address and telephone number in all advertising of Department-approved courses. The school owner, director, or administrator must supervise all advertising and the school owner must ensure that the school’s advertising is accurate. A.A.C. R4-28-502(D).

**The ADRE Can Provide Guidance or Issue Sanctions:** The ADRE receives numerous advertising complaints each month, primarily from other licensees, and will sanction those licensees in violation of the advertising rules. Therefore, if you have a question about your advertising practices, please contact your broker or the Department at <https://azre.gov/message-center> for guidance.

**Finally, if you notice a possible advertising violation by another licensee, consider contacting the person or the broker about the issue before filing a complaint.**