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Advertising on Facebook and Twitter Subject to Same Provisions of Kansas Law as All Other Forms of Advertising

Same Legal Rules Governing Traditional Forms of Advertising Apply to Social Media and Online Advertising

In Kansas, the same legal rules governing traditional forms of real estate advertising (i.e., brochures, handouts, magazines, newspapers, etc.) apply equally to any advertising conducted through social media applications (such as Facebook and Twitter) or other online, internet-based publications. In short, there are no special exceptions under the Kansas Real Estate Brokers' and Salespersons' License Act (KREBSLA) that would differentiate social media and online advertising from other traditional forms of real estate advertising.

Unfortunately, the Kansas Real Estate Commission (KREC) has no statutory authority to waive any of the advertising requirements contained in Kansas statutes and regulations for advertising conducted solely through social media applications or other online, internet-based publications. As a result, any advertising conducted through social media applications (such as Facebook or Twitter) or other online, internet-based publications must conform to the same legal requirements as all other forms of advertising.

All Advertising in Any Medium Must Display the Name of Supervising Broker's Business or Trade Name

The most common question on this issue is the requirement under **K.S.A. 58-3086(b)(B)** that all advertising conducted by a real estate licensee must "include the name of the supervising broker's trade name or business name by prominently and conspicuously displaying or announcing the supervising broker's trade name or business name in a readable and identifiable manner." In plain English, this means that all advertising must include the business name of the brokerage (such as Luke Bell Realty) in a prominent and readable location on all advertising.

This statute does not contain any distinctions between traditional forms of advertising (such as business cards or the newspaper) or advertising conducted through social media applications such as Facebook and Twitter. As a result, any advertising of a listing or the real estate services by a REALTOR® on Facebook, Twitter or any other social media application or internet-based publication must clearly display the name of the brokerage, even though this will take up a somewhat large amount of the available characters in the update.

Kansas Law Has a Higher Standard for Social Media Advertising than REALTOR® Code of Ethics

Finally, the National Association of REALTORS® has modified their rules governing similar advertising requirements contained in the Code of Ethics by amending Standard of Practice 12-5 to exempt REALTORS® from this disclosure requirement as long as the advertising was linked to a display that included the required disclosures. However, you must follow the more strict requirements contained under Kansas law because state law always overrules the REALTOR® Code of Ethics whenever state law is more strict than the code.

Need More Information?

If you have any questions about the advertising requirements discussed in this article, please contact Luke Bell, KAR Vice President of Governmental Affairs at lbell@kansasrealtor.com or by phone at 785-267-3610 Ext. 2133.