

When is advertising a listed property, not entered in MLS, in the seller's best interest (as opposed to that of the listing agent)?

The Nebraska Real Estate Commission interprets license law and regulations to allow "coming soon" advertising if the following criteria are met:

1. The advertising broker has an active listing agreement in place (so it is not potentially false or misleading advertising.)
2. The advertising is done in the name under which the broker does business and the broker's supervision.
3. The advertising is done with the knowledge and written consent of the property owner or his or her authorized agent.
4. The listing is in fact "coming soon" and not currently being shown or marketed to a limited group only.

While permissible, the use of "coming soon" advertising has potential to give rise to violations of license law. The proper use of "coming soon" advertising would be a situation where a listing agreement has been entered into but the property or owner is not yet ready for showings, perhaps due to needed clean up or repairs, or personal matters or events that keep the owner from wanting to show the property immediately.

The improper use would be using the "coming soon" advertising to limit the showing of the property to preferred buyers, or the exclusion of certain buyers, this could lead to various violations of the license act, which would include but not be limited to:

1. A violation of Neb. Rev. Stat. §81-884.24(2) "intentionally using advertising which is misleading or inaccurate" if the property is represented as "coming soon" and is in fact being marketed to a limited pool of buyers.
2. A violation of Neb. Rev. Stat. §76-2417(c) "promote the interests of the client with the utmost good faith" if the coming soon listing is used to secure a transaction which places the interest of the licensee over that of the client.
3. A violation of §76-2417(c)(i) "seeking a price which is acceptable to the client" if the licensee only offers or exposes the property to a limited number of potential buyers through a coming soon listing.
4. A violation of the Federal Fair Housing Act if the coming soon listing is used to limit or exclude certain people or classes of people from the marketing of the property based on race, color, national origin, religion, sex, familial status or handicap.