

# Advertising RULES

As many Realtors® have heard by now, effective January 1, 2018, in any advertising that includes the name of an associate broker, salesperson or team, the individual licensee's name (or team name) cannot be in larger type size than the name of the firm. This change has caused many brokers to reexamine both existing law and their current advertising.

Under the advertising rules that have been in place for decades, all real estate advertising must include the licensed name of the broker.<sup>1</sup> This requires that a broker use the name on file with the Department of Licensing and Regulatory Affairs ("DLARA"). The broker's logo or franchise name is not sufficient. If the broker has an assumed name on file with DLARA, the broker can advertise in that name.<sup>2</sup> In addition to the broker's name, the advertising must include either the broker's telephone number or street address.

On January 1, 2018, in any real estate advertising, the type size used for the firm's name must be at least as large as the type size used for the individual licensee's or team name.<sup>3</sup> The names do not need to be in the same font or color, and it is not the case, for example, that if the salesperson's name is in bold type then the broker's name must also be in bold type. It is still the case that the advertisement must include the broker's name as licensed or an assumed name on file with DLARA. The advertisement must still include the broker's phone number or address; however, the rules do not regulate the size of the type for the phone number/address.<sup>4</sup>

On September 18, 2017, the Department issued its interpretation of "type size" in real estate advertising in a communication to all licensees. According to the Department, when comparing the type size of the name of the associate broker, salesperson or team (what we will refer to as the "Licensee") with the type size of the name of the employing broker (what we will refer to as the "Firm"), either of the following tests may be used:

**Test No. 1.** The height of the block containing the name of the Licensee may not exceed the height of the block containing the name of the Firm; or

**Test No. 2.** The point size of the majority of letters in the name of the Licensee may not exceed the point size of the tallest word in the name of the Firm.

An advertisement that satisfies **EITHER** of these tests is in compliance.

*The following visual illustrations provide examples of compliant advertising within the above tests.*

<sup>1</sup> Rule 329; now MCL 339.2512e(1).

<sup>2</sup> Rule 301; now MCL 339.2512e(5).

<sup>3</sup> MCL 339.2512e(3)(b).

<sup>4</sup> MCL 339.2512e(3)(a).

## HEIGHT OF THE BLOCK

**1.** The first advertising illustration satisfies test number 1; that is, the block height of the name of the salesperson, "Simone Licensee" is 4.5 inches, and the block height of the name of the Firm, "Acme Brokerage Capital City Firm" is also 4.5 inches. The advertising also includes the office phone number for the Firm, so it is otherwise compliant with the Code requirements. Note, however, that if the legal name of the Firm in this illustration was only "Acme Brokerage", the advertisement would not be compliant with test number 1 because the block height of "Acme Brokerage" alone is smaller than the block height of "Simone Licensee."

**2.** The second advertising illustration also satisfies the first test because the block height of "Simone Licensee" is smaller than the block height of the name of the Firm – Again, the legal name of the Firm on file with DLARA in this illustration is "Acme Brokerage Capital City Firm."

**3.** The third advertising illustration also satisfies the first test because the block height of the name of the Licensee – in this case, "Simone Team" – is equal to the block height of the name of the Firm. Remember that the block height of the name of the Firm must be greater than or equal to the block height of the name of the Licensee. Phone numbers and addresses are not included in the calculation.

Illustration 1: A white rectangular box containing the name "Simone Licensee" in a large, black, serif font. Below the name is the phone number "(517) 555-5554 (c)". Below this box is a dark red banner with a white curved top edge. The banner contains the text "ACME BROKERAGE" in a white, bold, sans-serif font, followed by "Capital City Firm" in a smaller white font, and the phone number "(517) 555-5555 (o)" at the bottom. A pink bracket on the right side of the white box is labeled "A 4.5\" and "block height equal to B". A pink bracket on the right side of the dark red banner is labeled "B 4.5\" and "block height equal to A".

Illustration 2: A white rectangular box containing a small photograph of a woman on the left and the name "Simone Licensee" in a large, black, serif font on the right. Below the name is the phone number "(517) 555-5554 (c)". Below this box is a dark red banner with a white curved top edge. The banner contains the text "ACME BROKERAGE" in a white, bold, sans-serif font, followed by "Capital City Firm" in a smaller white font, and the phone number "(517) 555-5555 (o)" at the bottom. A pink bracket on the right side of the white box is labeled "A 5.5\" and "block height lesser than B". A pink bracket on the right side of the dark red banner is labeled "B 6.25\" and "block height greater than A".

Illustration 3: A white rectangular box containing the name "Simone Team" in a large, black, serif font. Below the name is the phone number "(517) 555-5554 (c)". Below this box is a dark red banner with a white curved top edge. The banner contains the text "ACME BROKERAGE" in a white, bold, sans-serif font, followed by "Capital City Firm" in a smaller white font, and the phone number "(517) 555-5555 (o)" at the bottom. A pink bracket on the right side of the white box is labeled "A 4.5\" and "block height equal to B". A pink bracket on the right side of the dark red banner is labeled "B 4.5\" and "block height equal to A".

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## POINT SIZE OF THE MAJORITY

4. In the fourth advertising illustration, the point size of the majority of letters in the name of the Licensee is compared to the point size of the tallest word in the name of the Firm. Here, while the point size of the first and last name of the Licensee is not the same, the point size of the last name is used for comparison purposes because that word has the most letters. Similarly, while all of the words in the Firm name are not the same point size, the point size of “Acme Brokerage” is used because those letters are taller than the letters in “Capital City Firm”. Since the point size of “Licensee” is equal to the point size of “Acme Brokerage” – both at 240 points – this advertising illustration is in compliance with the second test.

5. The fifth advertising illustration includes both the name of an individual Licensee, “Simone Licensee”, and the name of a team, “Simone Team”. Under the advertising rules, both the name of the individual Licensee and the name of the team is compared to the name of the Firm. Since the point size of both the name of the individual and the team are equal to the point size of the Firm name, the advertisement is in compliance with the second test. Note again that for purposes of comparison, we look at the tallest word in the Firm name. In this case, “Acme Brokerage” at 180 points.

6. In the last advertising illustration, the agent uses large stylized lettering for the first letter of both her first and last names. Under the second test, the focus is on the size of the majority of letters in the Licensee’s name – so, the relevant point size here is 210 points, not 420 points. Since the letters in the name of the Firm are also 210 points, this advertising illustration is in compliance with the second test.

In summary, the requirement is that the size of the name of the Firm must be greater than or equal to the size of the name of the Licensee. This requirement can be met by comparing either block height or point size. An advertisement that satisfies either test is compliant. It is not necessary to satisfy both tests. The purpose behind having two separate tests is to preserve the goal of the advertising rule – that is, to make sure that the advertising makes clear what company is doing the advertising – while at the same time, providing licensees with creative flexibility. Remember that these are minimum requirements. A Firm can always adopt more stringent requirements than the law dictates.