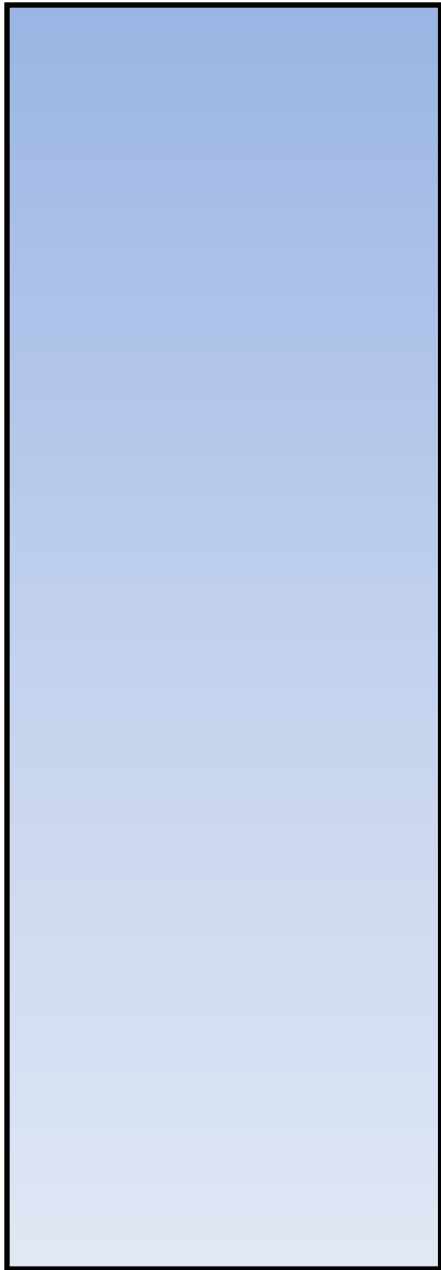


# Daytona Beach Area Association of REALTORS® Social Media Policy for Association Leadership



Adopted by the Board of Directors of the Daytona Beach Area Association of REALTORS®, 2015



The Daytona Beach Area Association of REALTORS® (DBAAR) understands that members of its Board of Directors post to blogs; comment on others' blogs; connect with colleagues, customers and clients through social networking sites such as Facebook, LinkedIn and Twitter; upload videos to YouTube and participate in any number of other activities loosely referred to as "Social Media."

While DBAAR understands and appreciates that members of our Board of Directors are using social media for a variety of personal and professional reasons, DBAAR needs members of our Board of Directors to understand and appreciate that they have fiduciary responsibilities to the association under its Bylaws and the laws of the State of Florida.

With this in mind, the DBAAR has developed the following policies regarding members of our Board of Directors' participation in social media.

All members of the Board of Directors of the Daytona Beach Area Association of REALTORS® are required to comply with the following guidelines while participating in social media channels.

## **1) Personal doesn't mean private**

If you choose to participate in social media channels and post anything about DBAAR, its activities or its staff, remember that social networks are easily accessible and your personal posts and comments are easy for people to find.

A. Personal expression: When you participate in social media, you are likely to find your personal and professional lives becoming more integrated online. While it's perfectly fine to express your personal beliefs, be aware that as an elected Director, you are held to a higher standard, and have legal duties to the association.

B. Be clear: When speaking about issues relevant to the association (real estate, property rights, interest rate tax deductions, etc.) it's important to specifically state that any personal opinions you express are yours and not necessarily those of DBAAR.

C. Be transparent: Even when stating your own personal opinion, you should reveal that you are a volunteer leader for DBAAR.

D. Consider writing a personal opinion disclaimer: If you use social media channels to express ONLY personal opinions, you could place a disclaimer in the bio of your social network profiles. An example: "I serve as a Director for the Daytona Beach Area Association of REALTORS®, and these are my personal opinions."

## **2) Participating in social media on the association's behalf**

A. Know the association's positions: You should be familiar with DBAAR's position (as adopted by the Board of Directors) on industry related topics. However, you must remember that the authorized spokesperson for the Association is the President or the CEO. In most cases the President is the primary spokesperson on behalf of the Association.

B. Behave as a member of the REALTOR® Party. In order to serve members' interests, the association works with elected officials from both major political parties who support issues important to REALTORS®. When representing the association, consider refraining from expressing your own political views about individual politicians and instead remember that the REALTOR® Party comes first.

C. Before publishing a picture of a member, association employee, or anyone with a professional relationship with the association, ask for permission from the person who was photographed. This is especially important for pictures taken in social settings. Also, think twice before posting photos of members and staff in social settings; don't post photos showing people drinking alcohol or in exotic locales because it may send an unintended and unwanted message to viewers.

### **3) Respecting copyright**

A. Copyright: Use caution when publishing text, pictures, video, or other content that you created. All created content is protected by copyright. If you want to use copyrighted material, you must obtain written permission from the original author of this content.

B. Creative Commons: In most cases, content created under a Creative Commons license is still protected from commercial use.

C. Linking vs. republishing: Whenever possible, link to content elsewhere on the Web instead of republishing it. You should properly attribute content to its author.

### **4) User Comments Liability**

A. The Communications Decency Act has provisions regarding Immunity for Online Publishers. These sections protect the host of any online platform from liability when publishing comments from other users – even if those comments are derogatory, illegal, or libelous. In other words, Facebook has immunity from derogatory, illegal, or libelous posts, but you do not.

B. Every local REALTOR® association whose bylaws and policies are in compliance with the National Association of REALTORS' policies receives errors & omission insurance that covers them in situations where an association finds itself the target of litigation regarding these issues. This E&O insurance only covers our Directors when they are abiding by our Bylaws and state law. Depending on the circumstances, you as a Director may not be covered by this E&O insurance policy.

### **5) Specific Prohibitions**

In addition to the general policies already outlined all members of our Board of Directors:

A. May not attack, defame, harass, discriminate against, threaten, libel, or otherwise exhibit inappropriate or offensive behavior or attitudes toward other REALTORS®, DBAAR or its employees, vendors, the media, or other third parties.

B. May not disclose confidential, sensitive, proprietary, secret, or private information about our association, its employees, business partners, suppliers, or other third parties.

C. May not disclose financial information about our association including but not limited to revenues, profits, forecasts, and other information.

D. Must be mindful of the fact that social media content creates written business records that may be retained for business, legal, and regulatory purposes.

E. May not violate copyright law, and will secure permission of the copyright holder before publishing copyrighted material as well as cite sources and link to online references and source material.

F. May not engage in any social media communication that may disparage or harm the image or reputation of our association and/or any of its employees.

G. May not violate any Federal Fair Housing or anti-trust laws.

## **6) Florida Law**

Under Florida law, directors oversee the management of the business and affairs of the corporation, and their actions are governed by a mixture of statutory and common law principles. The directors owe a fiduciary duty to the corporation and its shareholders, which is generally expressed in terms of good faith, the duty of care, and the duty of loyalty. The directors' fiduciary duty has been codified in the Florida Statutes:

Section 617.0830(1) provides that a director shall discharge his or her duties as a director: (a) in good faith; (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (c) in a manner he or she reasonably believes to be in the best interests of the corporation.

So a social media post that disparages DBAAR would clearly not be in the best interests of the corporation and could easily be interpreted as a violation of that Director's fiduciary duties under Florida law.

## **7) Code of Ethics**

In addition to potential violations of state and federal law, internet postings are also subject to the National Association of REALTORS®' Code of Ethics. See Appendix A for a list of the Articles of the Code of Ethics and Standards of Practice which apply most often to internet postings.

## **8) Policy Violations**

Possible violations should be reported to the DBAAR CEO and Board of Directors for review. The Board of Directors may, at its discretion, request that any post it deems inappropriate be removed. The Board of Directors reserves the right to take further action as it deems appropriate, including possible removal from leadership positions.

If the Board of Directors believes there has been a possible violation of the Social Media Policy, the following steps should be followed:

1. Written communication to the person regarding the situation with a request that the violation be rectified within 48 hours.
2. Explanation of possible ramifications if post is not removed.

## **Articles of the Code of Ethics and Standards of Practice Related to Internet Postings**

### **Article 6**

Realtors® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), Realtors® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the Realtor® or Realtor®'s firm may receive as a direct result of such recommendation. (Amended 1/99)

- **Standard of Practice 6-1**

Realtors® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. (Amended 5/88)

### **Article 10**

Realtors® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin or sexual orientation. Realtors® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin or sexual orientation. (Amended 1/11)

Realtors®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin or sexual orientation. (Amended 1/11)

- **Standard of Practice 10-1**

When involved in the sale or lease of a residence, Realtors® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, Realtors® may provide other demographic information. (Adopted 1/94, Amended 1/06)

- **Standard of Practice 10-3**

Realtors® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, national origin or sexual orientation. (Adopted 1/94, Renumbered 1/05 and 1/11)

## **Article 12**

Realtors® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. Realtors® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

- **Standard of Practice 12-1**

Realtors® may use the term “free” and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time. (Amended 1/97)

- **Standard of Practice 12-3**

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the Realtor® making the offer. However, Realtors® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the Realtor®’s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. (Amended 1/95)

- **Standard of Practice 12-4**

Realtors® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, Realtors® shall not quote a price different from that agreed upon with the seller/landlord. (Amended 1/93)



- **Standard of Practice 12-5**

Realtors® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that Realtor®'s firm in a reasonable and readily apparent manner. This Standard of Practice acknowledges that disclosing the name of the firm may not be practical in displays of limited information (e.g. "thumbnails". Text messages, "tweets", etc.). Such displays are exempt from the disclosure requirement established in the Standard of Practice but only when linked to a display that includes all required disclosures.

(Adopted 11/86, Amended 1/11)

- **Standard of Practice 12-6**

Realtors®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as Realtors® or real estate licensees. (Amended 1/93)

- **Standard of Practice 12-7**

Only Realtors® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have "sold" the property. Prior to closing, a cooperating broker may post a "sold" sign only with the consent of the listing broker. (Amended 1/96)

- **Standard of Practice 12-8**

The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on Realtors®' websites. Realtors® shall use reasonable efforts to ensure that information on their websites is current. When it becomes apparent that information on a Realtor®'s website is no longer current or accurate, Realtors® shall promptly take corrective action. (Adopted 1/07)

- **Standard of Practice 12-9**

Realtor® firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of Realtors® and non-member licensees affiliated with a Realtor® firm shall disclose the firm's name and that Realtor®'s or non-member licensee's state(s) of licensure in a reasonable and readily apparent manner. (Adopted 1/07)

• **Standard of Practice 12-10**

Realtors®' obligation to present a true picture in their advertising and representations to the public includes the URLs and domain names they use, and prohibits Realtors® from:

- 1) engaging in deceptive or unauthorized framing of real estate brokerage websites;
- 2) manipulating (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result; or
- 3) deceptively using metatags, keywords or other devices/ methods to direct, drive, or divert Internet traffic, or to otherwise mislead consumers. (Adopted 1/07)

• **Standard of Practice 12-11**

Realtors® intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner. (Adopted 1/07)

• **Standard of Practice 12-12**

Realtors® shall not:

- 1) use URLs or domain names that present less than a true picture, or
- 2) register URLs or domain names which, if used, would present less than a true picture. (Adopted 1/08)

• **Standard of Practice 12-13**

The obligation to present a true picture in advertising, marketing, and representations allows Realtors® to use and display only professional designations, certifications, and other credentials to which they are legitimately entitled. (Adopted 1/08)

**Article 15**

Realtors® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices. (Amended 1/12)

- **Standard of Practice 15-2**

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to not knowingly or recklessly publish, repeat, retransmit, or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g., the Internet), or by any other means. (Adopted 1/10, Amended 1/12)

- **Standard of Practice 15-3**

The obligation to refrain from making false or misleading statements about other real estate professionals, their businesses, and their business practices includes the duty to publish a clarification about or to remove statements made by others on electronic media the Realtor® controls once the Realtor® knows the statement is false or misleading. (Adopted 1/10, Amended 1/12)