

A photograph of a real estate sign. The sign is white with a red border and the words "COMING SOON!" in large, bold, red capital letters. It is mounted on a wooden post. In the background, there is a brick house with a gabled roof, green trees, and a blue sky with light clouds. A large red diagonal shape is overlaid on the top left of the image. A white diagonal shape is overlaid on the bottom left. A black diagonal shape is overlaid on the bottom right, containing the word "SALE" in large white letters.

COMING SOON!

**"COMING SOON"
MARKETING**

CREA 
THE CANADIAN REAL
ESTATE ASSOCIATION

SALE

Marketing trends come and go.

A trend that has recently found some popularity in Canada is what is known as "Coming Soon" advertising. Lawn signs are often adorned with banners declaring that the listing is "Coming Soon". The idea is that the property, for whatever reason, is not yet on the Board's MLS® System, but will be listed soon.

There is a fair amount of confusion about this type of advertising, including questions about motivations, restrictions, and even whether it is legally permissible to engage in "Coming Soon" marketing.

The good news is (depending on your point of view), unless your regulator says otherwise, this type of advertising is legal-as long as it is done properly. Having said that, if you are entering the "Coming Soon" zone, you better know the rules and be aware of the things that can get you in trouble.

Here are the basic things you need to know:

1. DO NOT misuse the MLS® trademark.

That means at least two things:

- (i) NEVER say "Coming Soon to MLS®" or "Coming Soon to the MLS®". The MLS® trademark is not a noun and is never to be used as a noun. The proper name for your Board's MLS® System is exactly that- the term "MLS® System". No other terminology is acceptable.
ALWAYS say "Coming Soon to the MLS® System of the (name of Board)", or employ an option that avoids the trademark concern by saying something like "Coming Soon to REALTOR.ca"
- (ii) NEVER display the MLS® logo on any signage or other marketing unless and until the property actually is posted on the Board's MLS® System.

2. MAKE SURE that your contract with the seller complies with regulatory requirements

What are your regulatory requirements? Does your legislation require that listing arrangements be in writing? Are you able to enter into “marketing” agreements that are something less than full listing agreements? Know your regulatory rules before you dive into the “Coming Soon” pool.

3. REMEMBER that advertising a property as “Coming Soon” is still ADVERTISING

- (i) Comply with all advertising restrictions. Any information you are required to include in advertising, such as the name of your brokerage, contact information, your licensed designation, etc...**must be** displayed.
- (ii) Advertising must be accurate, clear, and understandable. Otherwise, it might be considered misleading or deceptive. **Simply advertising a property as “Coming Soon” without indicating where it is coming to may not meet the accuracy requirement.** The Real Estate Council of Ontario, for example, **has stated that merely saying “Coming Soon”, without stating where it is coming to is misleading under their regulations.** So to be on the safe side, if **you are advertising something as “Coming Soon”, always include a statement as to where it is coming to.**

4. ONLY USE the “Coming Soon” marketing approach to benefit your seller. NEVER use it to benefit yourself

As an agent, you owe your client seller a number of fiduciary duties, including the duty of loyalty. You must always put the interests of your client ahead of your own. You must never use your position to advantage yourself at the expense of the client. For example, if the main reason you are marketing the property as “Coming Soon” is to sell the property on an exclusive basis in order to avoid paying a cooperating commission, you may be in breach of your duty of loyalty.

5. ALWAYS DISCLOSE to the seller, the impact of waiving the benefits of listing on a Board's MLS® System

Another fiduciary duty owed by every agent to the client is the duty of disclosure. The fact of the matter is, when a listing is not posted on an MLS® System, there is a loss of market exposure. Every listing agent **who is utilizing "Coming Soon" marketing should, as a matter of sensible risk management, disclose to their sellers the fact that excluding the property from the Board's MLS® System may:**

- (i) Reduce exposure to relevant audiences;
- (ii) Result in a lower number of offers received;
- (iii) **Compromise the seller's ability to obtain the highest possible price;**
- (iv) Limit Internet reach.

It is recommended that the listing agent provide these disclosures in writing.

