

Legal Tip: "Coming Soon" A New Market Strategy

Marketing property as 'coming soon' is actually not a new concept. It's been used in different parts of the country for quite a while. As a marketing program it is gaining momentum and the REALTOR® jury is out on whether it's acceptable or not. In fact, most REALTORS® cannot even agree on a definition of 'coming soon'. Some think it means unlisted property that will be available in the near future and others think it means the property is subject to a listing contract but is not available in the MLS.

[A recent article by NAR General Counsel Katherine Johnson](#) points out that in the end analysis it's not the REALTOR® jury's opinion that matters. The decision to employ coming soon as a marketing program for a listing, says Johnson, "must always be made based on the client's informed determination of what best serves the client's interests".

State license laws and MLS policies must be considered as well. PA license law prohibits "placing a 'for sale' or 'for rent' sign or advertising any property without the written consent of the owner, or his authorized agent". Most brokers/agents secure that written consent through a listing contract. MLS policies require that a property must be submitted to the MLS within 3 business days of taking the listing contract. While a waiver of that requirement, signed by the client, is possible, the waiver states that the client has been informed of the benefits of the MLS and consents to keeping the property out of the MLS. No matter how one approaches this, the client is in charge and the client gets to make the call based on what the client feels is in his or her best interest.

REALTORS® should take care to assure that the client truly understands this or any marketing strategy. An unsatisfied seller who can convince a hearing panel or the state licensing authority that the agent did not fully explain the pros and cons may bring a successful complaint. If the hearing panel or the state licensing authority further deems that the agent put their interests above the client, the results will be costly.