



New York State licensing law - by Anthony Gatto and Liz Celeone

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Recently, the Department of State (DOS) indicated it would be auditing licensees and their use of corporate titles. The DOS issued two opinions prohibiting the use of corporate titles by associate brokers and salespersons. There is no exception merely because the licensee practices commercial real estate or is a member of team. These (opinions) prohibit a real estate salesperson from holding voting stock or being appointed as an officer in a corporate brokerage, a manager or membership of a limited liability company or a member of a partnership. Agents would similarly be prohibited from falsely advertising that they hold such a position within the brokerage.

Although the term “director” is not specified in Real Property Law §441-b(2), the term “director” is well understood in corporate law. Article 12-A of the Real Property Law prohibits false and misleading advertising. Article 12-A also prohibits subordinate licensees from holding voting stock in a corporate brokerage and from being appointed as an officer in a corporate brokerage, a manager or member of a limited liability company, or a member of a partnership. As such, a licensee cannot use any title that is false or misleading, such as one that would indicate falsely that the licensee is a corporate officer with the brokerage company.

In summary, as can be seen from both DOS opinions, no licensee other than an individual licensed as a real estate broker may use a corporate title in any manner. The DOS Division of Licensing Services issues licenses to brokers, associate brokers and salespersons, and there is no differentiation between residential and commercial practitioners. As such, all real estate licensees

are subject to the same laws, rules, and regulations.

To read the full, unabridged article which includes all citations, please visit https://pubs.royle.com/publication/?i=510982&article_id=3132734&view=articleBrowser

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