

ASK NVAR:

QUESTIONS RELATED TO THE DO NOT CALL LIST

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I represented a seller, who, upon expiration of our listing agreement, selected to go to another real estate

firm. His listing with the second firm has now expired. Can I call him to inquire about his listing?

answer:

The general rule is that you, as a real estate professional, cannot call a person on the Do Not Call Registry unless you have an “existing business relationship” with the person. The rule defines an “existing business relationship” as one which extends for 18 months after the end of the transaction. As long as your call to the seller occurs within 18 months after the expiration of the agreement, you will not run afoul of the rules.

It is also important to note that Virginia law further restricts your ability to make solicitation calls to the hours of 8 a.m. to 9 p.m. See Va. Code Ann. §59.1-511.



May I call a person with an expired listing?

answer:

Before you initiate any such call you must verify that the number has not been registered on the Registry. You can find the Registry at: <http://telemarketing.donotcall.gov/>. If you see that person’s name on the Registry you should refrain from contacting him by telephone. Federal law requires that all companies keep their own internal Do Not Call List.



You must therefore also check with your company’s list before contacting the seller. If the seller is on your internal list, then you cannot call him, regardless of your relationship. However, the fact that the number is on the Registry does not prevent you from sending the prospective client a mailing or approaching him in person.



May I call a FSBO seller?

answer:

If you are seeking to list the FSBO seller’s property and her number is on the Registry, then the rules are the same as for a seller with an expired listing. However, if you are a buyer’s representative, you may contact the FSBO seller about a client’s potential interest in the property. You may only discuss with the FSBO seller your client’s interest in the property and cannot use your client’s interest as a way to discuss the possibility of the FSBO seller listing her property with your agency.



A person calls my office to inquire about a listing. May I call this person back if her number

is on the Registry?

answer:

This is another exception to the general rule. When a person initiates the contact, then you have the right to contact that person for the next three months. Your calls are not limited to their original inquiry. There is no limit on what you may discuss with the person during those three months and thus you could discuss other listings.



I placed a sign-in sheet at an open-house. Must I verify whether each person is on the Registry? And if they

are on the Registry, may I still call them?

answer:

The first question is whether this constitutes an inquiry by the person, which would then allow you to contact him for the next three months. The second concern is whether the person had a reasonable expectation of getting a follow-up call when he signed the sheet. As you can see, whether the rules apply is a question of interpretation. Under these circumstances, it would be safer to place a notice on your sign-in sheet that would alert the person that they are consenting to receive a follow-up call, and giving the person the ability to decline receiving such a call.

Next month, we will address questions related to solicitations via facsimile.