

What Message Are You Sending?

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As most of us know, there are laws that limit what we can say when advertising housing. The Federal Fair Housing Act prohibits making, printing or publishing ads that state a preference, limitation, or discrimination based on race, color, religion, sex, national origin, disability, or the presence of children. State and local laws may add other “protected classes,” such as sexual orientation in the case of Chicago and Cook County, and source of income, including Section 8 (housing choice vouchers) in the case of Chicago.

The prohibitions in the Act apply to

- persons or entities placing ads,
- advertising agencies preparing ads, and
- publishers, including newspapers, directories, and multiple listing services, presenting ads and listing information.

The Act covers illustrations (including human models), words, and phrases in ads for housing that could be interpreted as excluding or discouraging buyers or renters because of a “protected class” factor. Currently, ads that suggest a preference for adults over families with children (e.g. “Perfect for Empty Nesters” or “A Mostly Over 55 Condo”) have been the subject of many complaints.

Violations Costly

Violations of these prohibitions can be a costly proposition. For instance, the Boston Globe recently settled a fair housing advertising complaint brought by a fair housing organization for \$55,000. The paper was accused of violating the law by printing ads containing phrases such as “adults,” “ideal for couples,” or “no section 8,” which is a “protected class” in Massachusetts.

Last fall, a fair housing organization in the Los Angeles area settled several cases against groups operating real estate Web sites for allegedly running discriminatory ads, including ads that stated “no children,” “will accept a married couple 40 years and older,” “professional preferred,” and “near synagogue.” In addition to monetary relief, the settlements called for: the use of specialty software to spot check for ads that may be discriminatory; the posting of a fair housing logo on each Web site page that is “clickable” to a page with fair housing information; and fair housing training for Web site owners and employees.

Avoiding Discrimination

To minimize the likelihood of violating the advertising provisions of fair housing laws, it’s best to avoid using words that are subjective. Stick to a description of the property. When preparing ads, take a few minutes to review the ad and ask yourself if there is any

way your ad could be interpreted as discouraging prospects based on various “protected class” issues.

To support fair housing and minimize the likelihood of discrimination, the Multiple Listing Service of Northern Illinois, Inc. (MLSNI) is implementing a number of fair housing steps, including:

- adding a “clickable” fair housing logo to its member and public Web sites to provide access to fair housing information, along with a power point presentation on fair housing advertising guidelines, and making those same features available for use by shareholder REALTOR® Associations, such as NSBAR;
- training MLSNI staff who review listings to check for discriminatory language;
- utilizing screening software to “flag” possibly discriminatory language coming into the MLSNI broker load system, for review by MLSNI staff; and
- providing fair housing advertising guidelines to persons placing listing information in the MLSNI broker load system.

Take a Proactive Approach

As you prepare listing-related ads, be sure to develop ads that invite everyone to share in equal housing opportunities. Such an approach will not only minimize the likelihood of fair housing complaints but will also ensure business success in a housing market that is becoming increasingly diverse.

For additional information about fair housing advertising and marketing, visit the fair housing areas of the U.S. Department of Housing and Urban Development’s website at www.hud.gov and the National Association of REALTORS® web site at www.realtor.org. For more information about the Leadership Council for Metropolitan Open Communities, a Chicago area fair housing organization, visit www.lcmoc.org.

John Lukehart is the Vice President for Community and Government Affairs at the Leadership Council for Metropolitan Open Communities, a nationally recognized, Chicago area fair housing organization that operates litigation, education and advocacy programs. Article reprinted with permission.