

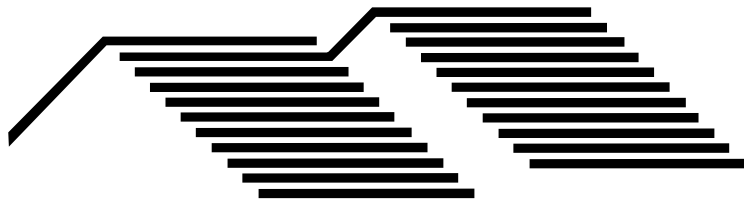
*fair*housing **HANDBOOK**



Shared Neighborhoods, Equal Opportunities

Fifth Edition

*fair*housing **HANDBOOK**



Shared Neighborhoods, Equal Opportunities

Fifth Edition



NATIONAL ASSOCIATION
OF REALTORS®

The Voice for Real Estate®

NATIONAL ASSOCIATION OF REALTORS®

GOVERNMENT AFFAIRS DEPARTMENT

Fred Underwood

Kyle Lambert London

Peter Morgan

LEGAL AFFAIRS DEPARTMENT

Nan Roytberg

For a complete listing of the business solutions offered from the NATIONAL ASSOCIATION OF REALTORS®, visit us online at www.REALTOR.org (members) or under the “For Consumers” section (non-members) at www.REALTOR.COM.

To receive NAR product updates and specials, send your e-mail address to: narprod@realtors.org.

To order additional copies, order online at www.REALTOR.org/Store or phone 800.874.6500 and select option “1.”

©2010 NATIONAL ASSOCIATION OF REALTORS®

All rights reserved. No part of this publication may be reproduced, in any form or by any means, without permission in writing from the publisher.

Table of Contents

INTRODUCTION	1
USING THE REALTOR® FAIR HOUSING DECLARATION	2
IMPLEMENTING YOUR COMMITMENT TO FAIR HOUSING	4
FAIR HOUSING CHECKLIST	5
Elements Needed to Establish and Maintain Office Procedures	5
GETTING STARTED	7
Develop a Written Fair Housing Policy	7
Fair Housing Training	7
Designate a Fair Housing Officer	8
Discuss Fair Housing on a Regular Basis	8
PROVIDING EQUAL PROFESSIONAL SERVICE	9
Equal Professional Service Model	9
Equal Service Checklist	9
Evaluate Your Existing Procedures	10
Self-Assessment Examples	10
Establish Your Equal Professional Service Procedures	11
Clearly State Actions Which are Prohibited	11
Tenant Selection Criteria (Rentals).....	11
Fair Housing Advertising and Promotion.....	12
Advertising Guidelines Checklist	13
Agent Agreement to Use Procedures	14

RECORDKEEPING	15
Why Document?	15
Keep Records of Each Prospect and Inquiry.....	15
What Should be Documented?	15
Service Provided.....	16
Nondiscriminatory Reasons for Treatment	17
Recording Race	17
Agent Agreement to Keep Records.....	17
 IMPLEMENTATION AND EVALUATION	18
Customer Feedback	18
Internal Quality Control	18
Develop a Corrective Action Policy	18
 ADDITIONAL STEPS	20
Local Association	20
Community-Based Fair Housing Groups	20
Keeping Up-to-Date	20
Keep Fair Housing a Priority	21
 APPENDICES	
A. Fair Housing Declaration.....	23
B. Sample Self-Assessment Checklist	25
C. HUD Guidance on Advertising	27
D. NAR Code of Ethics, Article 10.....	33
E. HUD Equal Housing Opportunity Posters (English and Spanish Versions).....	35
F. Prospect Equal Service Report Form	39
G. Recommended Fair Housing Procedures	43
H. Advice on Reporting Acts of Discrimination	51
I. Buyer Representation Agreement Fair Housing Language	53
J. Equal Housing Opportunity Logo	55

Introduction

Equal opportunity in housing still is not a reality for all people who choose to make this nation their home. The elimination of housing discrimination is one of the most challenging problems facing society. As REALTORS®, we are ethically committed to a housing market free of discrimination based on race, color, religion, sex, handicap, familial status or national origin.

In 1975, the NATIONAL ASSOCIATION OF REALTORS® entered into an Affirmative Marketing Agreement to aid the U.S. Department of Housing and Urban Development which is responsible for implementing the federal Fair Housing Act. This agreement was renegotiated several times until the Fair Housing Partnership Agreement replaced it in 1996. In 2003, NAR signed an historic new agreement with HUD, the National Association of Real Estate Brokers, National Association of Hispanic Real Estate Professionals, and the Asian Real Estate Association of America to jointly promote fair housing practices and to take specific actions to help achieve the national policy of providing fair housing within the United States.

This *Fair Housing Handbook* is designed to guide real estate professionals in the development, adoption and implementation of specific fair housing procedures and strategies. The *Handbook* is a training and orientation tool for the marketing of real estate, and it supersedes all previous information disseminated by the National Association.

Using the REALTOR® Fair Housing Declaration— a Personal Commitment to Fair Housing

REALTORS® are not being asked to sign a document with HUD to demonstrate a commitment to fair housing. That commitment is part of the REALTOR® Code of Ethics, real estate licensing requirements and the laws of the land. Because there is no document to sign, there is no list outlining what every REALTOR® must do in the area of fair housing. Instead, NAR and HUD developed a declaration of general fair housing principles. This Fair Housing Declaration can be used by any REALTOR® to promote fair housing to the public and within the firm. The declaration contains the following principles:

Provide equal professional service without regard to the race, color, religion, sex, handicap, familial status or national origin of any prospective client, customer or resident of any community.

This is required by law, and training is available from NAR. The equal service model calls for the use of systematic procedures and objective information, letting the customer set the limits, and offering a variety of choices. This commitment is included in the declaration as a basic principle of fair housing.

Keep informed about fair housing law and practices, improving clients' and customers' opportunities and business.

Fair housing education is an ongoing process. A basic fair housing course is a prerequisite, but must be supplemented because the law and community concerns change over time. Updates may be obtained from many sources, including Realtor.org, newsletters, classes, newspaper articles, discussions with community fair housing leaders and office fair housing meetings. NAR's fair housing course contains several modules—including an introduction to fair housing and continuing education.

Develop advertising which indicates that everyone is welcome and no one is excluded; expand a client's and customer's opportunities to see, buy or lease property.

The law prohibits discriminatory advertising. You can take this one step further by using inclusive advertising that indicates everyone is welcome. For example, you may not use human models of only one race in a series of ads without risking a violation of the fair housing laws. Many advertisers have responded by not using human models at all. If you consciously use human models of multiple races in integrated settings, you are indicating that everyone is welcome.

Inform clients and customers about their rights and responsibilities under the fair housing laws by providing brochures and other information.

Letting clients and customers know about their fair housing rights and responsibilities is an important step towards ending discrimination in the housing market. Informed customers can better recognize discrimination and address it. The information also reduces the likelihood that you will be asked to discriminate or face a discriminatory decision by a client or customer.

NAR's guide, *What Everyone Should Know About Equal Opportunity in Housing*, is ideal for distribution to real estate professionals, clients and customers. The brochure outlines a brief history of fair housing regulation and describes the responsibilities of all parties to a real estate transaction. For more information, please phone NAR at 1-800-874-6500 and select option "1."

Document efforts to provide professional service, which will assist you in becoming more responsive and successful.

Documentation is important not only for risk management, but also to assist you in learning where you can improve. Documentation provides you with tools to help you solicit repeat business and gives you invaluable clues into market trends.

Refuse to tolerate noncompliance.

Noncompliance with fair housing laws impacts your ability to do business. Find ways to deal with those who appear to be violating the law and help them understand the importance of fair housing to your business—and theirs. If discrimination continues, you cannot be associated with it. As a last resort, make sure any customers or clients who have been victim of the discrimination know how to file a complaint alleging discrimination. Remember, the law protects you too, and you may file complaints on your own behalf.

Use the Code of Ethics to educate fellow REALTORS®.

Learn about those who are different, and celebrate those differences.

We live in an increasingly diverse nation. It is important to learn about the differences between people and celebrate how those differences contribute to our society. The *At Home with Diversity: One America* course and certificate program provides an excellent opportunity for REALTORS® to become aware of these differences and to understand what they can mean in everyday business practices. For information on the *At Home with Diversity: One America* program, phone 202-383-1201 or email diversity@realtors.org.

Take a positive approach to fair housing practices and follow the spirit as well as the letter of the law.

Treat fair housing in a positive light—fairness and equal opportunity are key elements of a real estate market where there are no barriers to the ownership, use or transfer of real estate. Discrimination is an impediment; fair housing is the positive answer to discrimination. The spirit of the law is to provide everyone equal treatment and equal choice based on complete market information. That is our business and we should be about the spirit of fair and open housing markets.

Develop and implement fair housing practices for the firm to carry out the spirit of this declaration.

A commitment to principles cannot be complete unless procedures are implemented to address those principles. Nothing substitutes for clear procedures outlining how to do business. These procedures can and should be tailored to your firm and be flexible enough to meet your needs.

Members working individually, in their firms and through the association, can make the REALTOR® Fair Housing Declaration relevant to the fair housing issues REALTORS® face every day.

Implementing Your Commitment to Fair Housing

The purpose of this manual is to facilitate development of office management principles and procedures to ensure equal professional service. It is unlikely that any two offices conduct business in exactly the same way, just as it is unlikely that any two agents conduct business in exactly the same way. It is, however, likely that successful offices and agents will have incorporated variations of proven policies and procedures into their business practices: good organizational skills, routine follow-up procedures, effective marketing techniques and knowledge of fair housing requirements that provide equal professional service.

It is likely that you already have procedures which can be easily adapted to assist you in providing equal professional service. You also may find that the equal professional service policies and procedures suggested herein can help you professionalize other areas of your work.

Fair Housing Checklist

ELEMENTS NEEDED TO ESTABLISH AND MAINTAIN OFFICE PROCEDURES

- Y N 1. **Do you have a written fair housing policy?**
- A. Are all agents, associates and employees familiar with this policy?
 - B. Have all agents, associates and employees committed their intent to comply with this policy?
 - C. Is the commitment in writing?
- Y N 2. **Do you publicize your commitment to fair housing?**
- A. Is the fair housing poster prominently displayed in your office?
 - B. Do you use the Equal Opportunity Logo or slogan in your advertising and on your brochures?
 - C. Do you inform prospective sellers, buyers, landlords and tenants of your commitment to fair housing? How?
- Y N 3. **Is fair housing training required in your firm?**
- A. Must all agents attend basic fair housing training classes (for example, in-house, Board of REALTORS® or IREM chapter)?
 - B. Is there one person designated to be your firm's "fair housing officer"?
 - C. Is the commitment in writing?
- Y N 4. **Have you developed procedures to provide equal professional service?**
- A. Do these procedures address the following: obtaining objective information, letting the customer set the limits and offering a variety of choices?
 - B. Do you have procedures concerning courtesies and follow-up with visitors to your office?
 - C. Do you have policies regarding advertising?
 - D. Have all agents agreed to follow these procedures?
 - E. Have they agreed to keep good records and document all prospect visits?
- Y N 5. **Do you review your firm's compliance with your procedures on a regular basis?**
- A. How often?
 - B. Do you examine the records of the agents?
- Y N 6. **Do you have a corrective action policy?**
- A. Does it provide for additional training?
 - B. Is your policy clear regarding your unwillingness to be associated with someone who does not comply with the fair housing laws?
 - C. Do you document your corrective action and results?

Y N **7. Do you regularly review and modify your procedures to respond to changes in the law, new fair housing issues and to correct deficiencies in your office?**

Y N **8. Do you have a mechanism for feedback from customers and prospects?**

If you have answered “NO” to any of these questions, evaluate the impact on your fair housing responsibilities and adjust your office practices accordingly.

Getting Started

DEVELOP A WRITTEN FAIR HOUSING POLICY

All REALTORS® are committed, through the Code of Ethics, to equal opportunity in housing. Article 10 of the Code of Ethics states:

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status or national origin. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status or national origin.

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status or national origin. (Amended 1/00) (See Appendix D to review Article 10 of the Code of Ethics.)

Develop a written fair housing policy which contains an affirmative commitment to equal opportunity and extends that commitment to all associated with the company. Once this has been done, you are encouraged to require all agents, associates and employees to become familiar with the formal policy and fair housing requirements. One suggestion is that each agent, associate and employee sign a statement which acknowledges their intent to comply with the policy regarding equal professional service.

Suggested Policy Statement

This company conducts business in accordance with all federal, state and local fair housing laws. It is our policy to provide housing opportunities to all persons regardless of race, color, religion, sex, familial status, handicap or national origin.

Fair housing procedures established by the company are not recommendations. THESE PROCEDURES MUST BE FOLLOWED BY EVERYONE ASSOCIATED WITH THE COMPANY.

FAIR HOUSING TRAINING

All associated with your firm who have contact with prospective buyers, sellers, landlords or tenants should be provided basic training in fair housing issues. Fair housing training needs to be done on a regular basis, and all staff should participate in training sessions offered by local REALTOR® associations. NAR also offers a wide variety of informational publications and videos designed to assist with ongoing education and training.

Your training should cover the following:

- **Prohibited bases of discrimination**
[race, color, religion, sex, familial status, handicap or national origin]
- **Federal fair housing laws**
- **State and local laws**
- **Behavior considered discriminatory**

- **Remedies and penalties for violations of the law**
- **Systematic procedures for providing equal service**
- **Good recordkeeping**

Information also is available from a variety of outside sources. Local associations of REALTORS®, private fair housing agencies, civil and disability rights groups, private consultants, and state and local government officials can provide information and guidance, as well as a fresh perspective on fair housing issues. Many of these groups and organizations offer literature and educational videos, conduct seminars and provide speakers for meetings and training sessions.

DESIGNATE A FAIR HOUSING OFFICER

An in-house resource on fair housing is invaluable to developing and maintaining office procedures to implement your commitment to fair housing. Either the broker or someone designated by the broker should serve as the firm's fair housing officer. The responsibilities of the fair housing officer should include the following:

- **Provide ongoing training on fair housing**
- **Keep up-to-date on fair housing developments**
- **Be a resource to answer fair housing and related questions**
- **Keep track of compliance with fair housing and your equal professional service policy**

Having one resource, a fair housing officer, helps to ensure consistency in the firm's approach to fair housing concerns.

DISCUSS FAIR HOUSING ON A REGULAR BASIS

Regularly discuss fair housing with all those associated with your office. These discussions should include:

- **Reviewing compliance with your equal professional service procedures**
- **Answering questions and reviewing current fair housing concerns**
- **Providing regular updates on any changes in laws, NAR policies, new court decisions, settlements and relevant local activities**

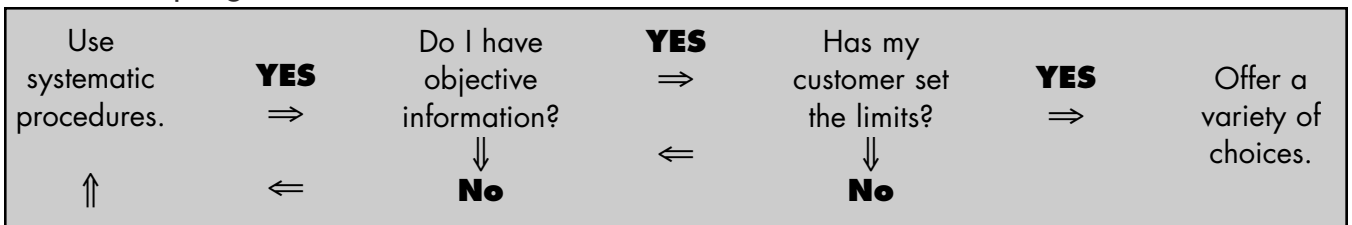
Fair housing practices should be applied daily and associates should be encouraged to make suggestions on additional practices.

Providing Equal Professional Service

EQUAL PROFESSIONAL SERVICE MODEL

The NATIONAL ASSOCIATION OF REALTORS® has developed the Equal Professional Service Model to assist you in developing office procedures related to fair housing. This model should be applied to all areas of marketing real estate. Equal professional service means consistently providing the same level of service to all your clients and customers. If you develop a consistent approach to greeting people, showing homes, qualifying prospects, getting listings, conducting open houses, recordkeeping and following up with clients and customers, you should have satisfied clients and a growing number of prospects. This section addresses the contact with a prospect who approaches a REALTOR® to find housing.

Recordkeeping



EQUAL SERVICE CHECKLIST

1. **Develop policies or procedures concerning treatment of prospects and clients during their initial contact with your firm. For example:**
 - Hospitality (e.g., greeting, refreshments, etc.)
 - Explaining the services offered by your firm relative to their needs
 - Obtaining initial prospect information (e.g., name, address, telephone).
(See Appendix F for a sample of a Prospect Equal Service Report Form.)
 - Assignment to agents
 - Explaining your commitment to fair housing laws
 - Keeping records of these contacts
 - Follow-up
2. **Obtain objective information regarding the prospect or customer’s needs and wants. The Prospect Equal Service Report Form can assist with collecting this type of information. For example:**
 - Identify objective needs such as price, size, features and location
 - Respond to subjective requests in a way to elicit objective criteria
 - Determine whether the customer knows what they are financially qualified to buy

3. Let the customer set the limits in the housing search.

- Provide prospective buyers and renters with complete and accurate information on the availability of housing, alternative methods of financing and other facts affecting the choice of location that are lawful to provide (e.g., schools, employment, or transportation—not racial or religious demographics.)
- Allow the prospect to make the choices regarding communities or areas, features in a house or apartment, price, and financing options.

4. Offer a variety of choices regarding financing options, location, and types and styles of houses.

5. Require good recordkeeping for all prospects and inquiries regarding housing requested, housing options and alternatives offered, and service provided.

6. Establish a method of monitoring contacts and evaluation of service being provided.

EVALUATE YOUR EXISTING PROCEDURES

By examining your existing procedures, you should be able to determine whether or not your current business practices are contributing towards your goal of providing equal professional service. You also should be able to pinpoint current procedures and practices which have the potential to generate liability. Each stage of the sales or rental process will need to be examined, as will the extent to which each agent operates differently from the others in the office. The Equal Service Checklist (Page 9) can assist you in this examination, as can the self-assessment questions in Appendix B.

Information regarding a customer's needs and wants is obtained during contact with that customer. How you obtain that information and the extent to which the customer sets limits can indicate areas where you may or may not be providing equal professional service. Using the self-assessment questions in Appendix B, begin with your first contact with the prospective buyer or tenant and determine how each person associated with your firm obtains information to assist him or her in finding housing for that prospect.

SELF-ASSESSMENT EXAMPLES

1. How do you initially determine a prospect's needs?

Example: What questions do you ask? Do you make suggestions? When does each member in your firm determine the price range of housing sought? How is this price range determined? If he or she assists in the determination of that price range, what assistance and advice is offered?

2. How do you record this information?

Example: Do you keep housing preference data information, noting the needs and requests of the prospects? Do you note when requests are honored? If properties shown don't fit a request, why not?

3. How are properties chosen?

Example: How does each member in your firm determine the location desires of the prospect? When prospects do not express location preferences, in what locations are properties offered and how are preferences elicited? When are these choices and preferences determined? What guidance and suggestions are offered to the prospect who is choosing locations? What records are kept regarding the prospect's location preferences?

4. Who decides where to look for housing?

Example: Do you rely on the prospect to make the choices? Do you develop a list of properties to inspect? What resources do you use to locate properties? Does this process vary depending on the prospect? Who sets the limits? How do you record this information?

ESTABLISH YOUR EQUAL PROFESSIONAL SERVICE PROCEDURES

Equal professional service procedures should be in writing and made known to all associates, agents and employees. These procedures should outline what is expected and how these expectations are to be met. *(Several sample best practices are provided in Appendix G.)* Only after a careful assessment of your current practices can you design your procedures. At a minimum, these procedures should require that objective information be obtained from the customer, that the customer set the limits and that a variety of choices are offered.

CLEARLY STATE ACTIONS WHICH ARE PROHIBITED

Procedures should outline actions which are prohibited. These prohibitions should focus on actions that would be a violation of the fair housing laws. For example, refusing to list or show a property in a market area because of the presence or absence of particular racial or ethnic groups would violate the Fair Housing Act. Such activity should be prohibited. You may use Section 804 of the Fair Housing Act as a guide to what actions to prohibit.

TENANT SELECTION CRITERIA (RENTALS)

If your office or firm handles rental properties, you should establish procedures and criteria for selecting tenants. The same procedures should be followed for all applicants, and the criteria established should be consistently used. These procedures should cover everything outlined above plus how the applications are evaluated. The criteria used and the information relied on should be objective and relate to the ability of the applicant to fulfill the obligations of tenancy. You should establish minimum standards for each of the criteria.

Appropriate criteria may include:

- **Rent-to-income ratio**
- **Credit record**
- **Rent payment pattern**
- **Household size**

Inappropriate criteria would include:

- **Race**
- **Color**
- **Religion**
- **Sex**
- **Handicap**
- **Having children**
- **National origin**

FAIR HOUSING ADVERTISING AND PROMOTION

The fair housing laws apply to the way you market and advertise houses and real estate services.

The Fair Housing Act makes it unlawful to:

. . . make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin.

It is important to note that the phrase “indicates any preference, limitation or discrimination” means violation of the law can occur without intent. It is the perception of the reasonable reader that determines whether the notice, statement or advertisement violates the law.

Marketing decisions must not be based on, or have any correlation to, race, color, religion, sex, handicap, familial status or national origin or such composition of a neighborhood or community. From a practical perspective, you should be very careful when using target marketing techniques and when developing the content of promotional material—including the comments for a listing in the MLS.

NAR recommends that an MLS not publish that a property is qualified housing for older persons unless the listing broker has first supplied the MLS with the written statement of the relevant homeowners’ association asserting that the community is qualified housing for older persons. The MLS should retain such statements in its files

NAR bases this advice on the following:

- Section 807(b)(5) of the Housing for Older Persons Act of 1995 (the Act) provides that a person shall not be held liable for monetary damages for discriminating on the basis of familial status if there was “good faith reliance” that the property was exempt because it qualified as housing for older persons. Such good faith reliance must be based on: (1) no actual knowledge that the community is not eligible for the exemption, and (2) a formal writing by the community association stating that it is qualified for the exemption.
- HUD Regulation 100.308, which provides for implementation of the Act, explains this further: The party asserting a “good faith belief” must have actual knowledge that the community asserted in writing that it qualified as housing for older persons and must be able to demonstrate that actual knowledge through “reliable evidence.”

- While there are no case decisions that define “actual knowledge” or “reliable evidence” in this context, a common sense reading of the regulation and these terms is that the party asserting the good faith defense must have actually seen the community’s written statement.

Three areas to pay attention to:

- **Marketing strategies that limit exposure to less than the entire market**
- **Word usage**
- **Use of human models**

(HUD guidance on advertising can be found in Appendix C.)

ADVERTISING GUIDELINES CHECKLIST

According to the federal fair housing laws, advertising for the sale or rental of property may not intentionally or unintentionally state a preference for any person or an intention to exclude any person because of the person’s race, color, religion, sex, handicap, familial status or national origin. This applies to the use of media, such as newspapers, radio, the internet, television or billboards, and any written material produced in connection with the sale or rental of a dwelling, such as application forms, brochures, flyers, signs, posters or banners. These laws apply to print and electronic media alike.

The Fair Housing Act Prohibits:

- Using words or phrases describing the landlord, tenants, buyers or sellers, including: white private home, colored home, Jewish home, Hispanic residence, adult building or any other words indicative of race, color, religion, sex, handicap, familial status or national origin
- Conveying preference to one group over another or exclusion due to race, color, religion, sex, handicap, familial status (children under 18) or national origin
- Using catchwords such as restricted, exclusive, private, integrated, traditional, board approval or membership approval
- Using symbols or logos that imply or suggest discrimination because of race, color, religion, sex, handicap, familial status (children under 18) or national origin
- Writing out directions to the property that refer to well-known racial, ethnic or religious landmarks or to any other major landmark that could signal a preference for a specific type of person
- Targeting advertisements to one particular segment of the community
- Using only adult or white models over a significant period of time
- Using words or phrases describing persons with disabilities or with respect to families with children, including:

crippled	mentally ill	restricted community
singles	deaf	retarded
blind	adult building	mature persons

- Advertising exclusively in:
 - A strategically limited geographic area
 - Particular editions of newspapers to reach a particular segment of the community
 - Only small papers that cater to particular ethnic or religious groups rather than general circulation papers
 - Only selected sales offices

The Fair Housing Act Permits:

- Indicating that property is accessible to handicapped individuals or intended for and operated as housing for older persons
- Indicating that rental or sale of a property is limited to persons 55 or older, provided that the properties association has stated in writing it is “qualified housing for older persons”
- Using the equal housing opportunity logotype, statement or slogan in all advertising (*The Equal Opportunity Logo can be found in Appendix J.*)
- Using human models who:
 - Represent all races and age segments of the population in the area, including families with children and people with disabilities
 - Vary periodically so that diverse groups in your community are featured—majority and minority in the metropolitan area, both sexes, families with children (where appropriate)
 - Portray persons in an equal social setting
 - Indicate to the general public that housing is available to all persons on an equal basis

Localize Your Efforts to Abide by the Law by Doing the Following:

- Know the guidelines in the area where promotional materials are seen. Laws vary according to the location.
- Learn about each publication’s guidelines or criteria before placing an advertisement.

Questions to Evaluate Your Advertisements and Promotional Materials

- What is your message really saying?
- Does the advertisement exclude any potential prospects or groups?
- Does the advertisement describe the services of the firm, not the target market?
- What steps can the firm take to assure that it can truly provide the services promoted in the advertisement?

AGENT AGREEMENT TO USE PROCEDURES

It is important that these procedures be provided to all associates, agents and employees, and that all understand the duty to follow these procedures. It is advisable to distribute written procedures and obtain a written acknowledgment from each individual that the procedures have been read and are understood. It is advisable to require that all associated agents agree to these procedures.

Recordkeeping

WHY DOCUMENT?

The development of procedures will go a long way towards ensuring equal professional service for all customers and clients. Do not underestimate the importance of documenting all the work that is done. Some reasons to require documentation include:

- **It allows associates to self-assess their own activities and correct deviations from policy before they damage your business.**
- **Documentation of activities serves as a constant reminder of fair housing responsibility.**
- **It allows all office activity to be monitored in an objective manner.**
- **It provides you with evidence of your firm's compliance with the law, which may become an invaluable defense in the event you become involved in a housing discrimination complaint.**

KEEP RECORDS OF EACH PROSPECT AND INQUIRY

Prospect sheets, copies of listings, notes regarding appointments and qualifying forms are kept while you assist prospects in their housing search. These records should be kept for all prospects, regardless of their decision to pursue housing options. Keep in mind that discrimination charges are often based on the experiences of individuals who did not complete the process and testing evidence may be based on only a few or limited contacts.

Remember, **all** records and documents related to customer and client contact are important. Without comprehensive documentation, your chances of surviving a discrimination charge are likely to be as successful as convincing the electric company that the “check is in the mail.” A fair housing complaint, especially one backed up by testing results, will be extensively documented. Without documentation, you will find it difficult to refute evidence presented by testers or complaining parties. Judges and juries are not likely to believe a defense based on “take my word for it” statements. (*Prospect Equal Service Report Forms can be found in Appendix F.*)

Your records should be kept for as long as the prevailing statute of limitations in fair housing complaints. This time period can vary, so check your state law to verify the relevant time frame for your area. A general rule to follow in recordkeeping is, when in doubt, keep it.

WHAT SHOULD BE DOCUMENTED?

Now that you know some of the reasons you need to keep records, what type of information should be recorded? There is no one answer to this question; different offices will have a need for different levels of information gathering. There is, however, basic information that should be included in any recordkeeping system.

SERVICE PROVIDED

You should keep records on the home buying process. Think about how you work with a prospective buyer or tenant and the records you keep during the process. Name and telephone number, address, type of housing, price range, etc., are all kept in a prospect file. You should note the service provided to the prospect. Relate this service to the standard procedures developed for your office. (*See the Prospect Equal Service Report Form in Appendix F.*)

For example, if you regularly show housing on the first visit, your recordkeeping method should provide a way to note whether this was done. If materials such as community information packets or the NAR *What Everyone Should Know About Equal Opportunity in Housing* brochure were provided to the prospect, record that fact.

You should also keep records of housing offered or shown and the reactions of the prospect to each home. Sometimes you write notes on the cover of the MLS book or on scraps of paper, but you need these records to help a prospect, especially if multiple visits are required. It is this process of narrowing choices that you must record for fair housing purposes.

Your records should include the following:

- **Background Information:** Background information is essential in dealing with any prospect. For example, your records should include contact information, appointment dates, etc.
- **Housing Preference Data:** Housing preference data records will detail the needs, wants, special requests and location preference(s) of the prospect. Information such as number of bedrooms and baths, style, move in date, etc., should be recorded for each prospect.
- **Financial Qualifications:** Your records should indicate whether any assistance was provided to the prospect in determining the price of housing he or she is qualified to purchase or rent. Indicate what information regarding financing options (conventional fixed rate loans, adjustable rates, FHA or VA) was given to the prospect. If your office qualifies prospects, objective qualification sheets should be kept in your records. If prospects are referred outside for qualification, record to whom the prospect was referred and the dollar amount the prospect qualified for.
- **Responses to Requests:** Were specific requests honored? Document how those requests were honored. If not, why not? For example, if a particular housing unit was requested but not made available, that fact and the reason for its unavailability should be recorded.
- **Housing Selection Process:** An important part of demonstrating equal professional service is found in the housing selection process. You will record options selected and how others were ruled out. The process of identifying and narrowing choices should show all options offered, identify why some were ruled out, identify the rationale for further selections and who chose the options. The use of objective information gathering and systematic procedures will be evident in this area of recordkeeping. Here you can note the information provided on specific listings and also retain a copy for the file.

NONDISCRIMINATORY REASONS FOR TREATMENT

There are times when procedures cannot be followed or when service provided is different for a particular prospect. The prospect is in town for one day and wants to see three houses without visiting your office. The prospect refuses to be qualified. In these types of situations, document the reasons for the variance from procedures. Additionally, document a prospect's choice-narrowing decisions, such as a desire for a neighborhood amenity, special features in a house or a dislike of certain features. The prospect's expression of desired and undesired features plays a key role in finding housing. Such information must be recorded.

RECORDING RACE

Recording the race or national origin of a prospect is invaluable in your use of records to document equal professional service and to monitor your firm's compliance with the law and your equal opportunity policy. Many people consider the collection of this information to be suspect and some assume the information is used to discriminate. If you choose to collect information on the race or national origin of prospects, you should explain that the information is being used for affirmative marketing purposes to assist in assuring that equal service is provided.

The collection of information on race is helpful in two ways:

- **It helps you in monitoring service provided in your office.**
- **It provides you with evidence that equal professional service is provided to prospects of different races.**

The purpose for keeping records on race is to assist the firm in meeting its commitment to provide equal professional service. If there are problems of discrimination in your market area based on a factor other than race, such as familial status, records should be kept on each prospect with respect to that classification. Certain cautions are in order however. Identify the person's race, etc., yourself—do not ask the prospect. Do not ask a prospect if he/she is handicapped.

AGENT AGREEMENT TO KEEP RECORDS

All agents and associates in the firm must agree to keep these records. The broker may be liable for the discrimination of agents and it is important that the broker or owner have access to records of all agents to assist in monitoring compliance or in responding to a charge of discrimination. It is suggested that recordkeeping be a mandatory part of office procedures and that all agents keep these records.

Implementation and Evaluation

CUSTOMER FEEDBACK

A further step in ensuring equal professional service is to develop feedback mechanisms. The most elementary form of feedback occurs all the time: a customer, client or prospect contacts their agent and discusses various concerns. While interaction of this type is ongoing, it is difficult for you to monitor or evaluate. One way for you to benefit from customer feedback is to provide notice of your interest. A card or brochure which states your policy of providing equal professional service and commitment to fair housing along with a number to call with any questions or concerns may enable you to correct simple mistakes and misunderstandings before they become serious or a customer decides to take legal action. NAR also recommends that you contact customers following their visit with a customer service survey. In this survey, you can solicit customer views regarding your firm's business, their likelihood to visit you again and their views regarding the provision of services without discrimination. These feedback mechanisms may cover other issues as well as benefit your business in general.

INTERNAL QUALITY CONTROL

Develop an in-house compliance review program for fair housing policy and office procedures. This review process will be helpful in pinpointing problem areas, identifying associates who may not be implementing the equal professional service procedures and assessing areas where additional training is needed. By regularly reviewing your compliance program, you also will be able to eliminate policies and procedures which are cumbersome and ineffective in furthering your fair housing effort and, most importantly, correct problems before they escalate into lawsuits. Use **Appendix G—Recommended Fair Housing Procedures** to assist you with implementing your program.

Your fair housing officer should regularly review the equal service reports or other records of your firm's agents and compare the treatment provided to customers of different races. If there are patterns that indicate a difference in treatment, you can quickly identify the reasons for disparity in treatment and make corrections if necessary. Comparing these records could provide excellent material for office meetings. Agents could be asked to participate in the comparison, assist in evaluating potential fair housing liability and suggest corrective action. Just as your knowledge of fair housing issues needs to grow and develop, these in-office evaluations can help staff and agents better understand fair housing law and the office procedures.

DEVELOP A CORRECTIVE ACTION POLICY

Once associates and employees have been provided with clear expectations regarding the commitment to equal professional service, a plan must be developed for dealing with violations which may occur. The discipline policy you develop should be based on correcting and training your staff. However, it also should clearly indicate that violations will be taken seriously and will not be tolerated. All associates and employees should be aware that you are unwilling to be associated with someone who is a fair housing liability.

Be sure to document required corrective action and the circumstances involving any violations. Again, requiring associates and employees to sign a statement of intent to provide equal professional service is strongly recommended.

Additional Steps

LOCAL ASSOCIATION

Your association of REALTORS® can be of great assistance to you in your fair housing efforts. You and your associates can attend fair housing training programs. The association may have a committee forum for discussing fair housing issues and obtaining up-to-date information. Your association may have developed recommended office management procedures on which you can model your procedures.

When you have fair housing concerns, your association should be your first resource. You should help your association by contributing ideas and examples of successful efforts at the appropriate committee meetings and training programs. Your association also is working towards developing cooperative approaches to fair housing in your community. Participate in programs and these efforts, and help others see the need to implement fair housing procedures in their firms.

COMMUNITY-BASED FAIR HOUSING GROUPS

If there is a fair housing group in your community, develop contacts with that group and build a relationship that enables you to share information, cooperate in implementing fair housing strategies and gain access to the latest fair housing news. Many fair housing groups will be happy to assist you in training your associates or send a speaker to an office staff meeting. These local groups can assist you in your self-assessment and evaluation prior to establishing equal service procedures. You also can educate fair housing advocates on how the real estate market works in your community.

REALTORS® are often the first to know if a prospect is the victim of discrimination. If your prospect is discriminated against, know the options available to redress that discrimination. One option is to refer the prospect to a fair housing center.

KEEPING UP-TO-DATE

Fair housing is a constantly changing body of law. Local, state and national legislation are all subject to change. The courts continue to interpret and develop the law. It is essential that you stay current on changes in the law and modify your education and procedures accordingly. There are several sources of information on fair housing law:

- **NAR, the state and local associations: Read REALTOR® association publications and watch for fair housing news**
- **The *Letter of the Law*: NAR's legal newsletter, accessible through NAR's website, www.REALTOR.org**
- **National Fair Housing Advocate: Online at www.fairhousing.com**
- **Department of Housing and Urban Development: Online at www.hud.gov**

KEEP FAIR HOUSING A PRIORITY

Providing equal professional service should be a priority in your business. You should consistently monitor your office for compliance with fair housing procedures. Keep yourself and associates up-to-date on fair housing issues. Learn how fair housing impacts all areas of your business, from advertising to getting listings, from sales to property management and in your selection of associates and employees. It is important to stress this to all associated with your firm and to your clients and customers. This manual is designed to help you develop and implement fair housing procedures for your firm.

Appendix A: Fair Housing Declaration

REALTOR® FAIR HOUSING DECLARATION

I agree to:

Provide equal professional service without regard to the race, color, religion, sex, handicap, familial status or national origin of any prospective client, customer, or of the residents of any community.

Keep informed about fair housing law and practices, improving my clients' and customers' opportunities and my business.

Develop advertising that indicates that everyone is welcome and no one is excluded, expanding my clients' and customers' opportunities to see, buy, or lease property.

Inform my clients and customers about their rights and responsibilities under the fair housing laws by providing brochures and other information.

Document my efforts to provide professional service, which will assist me in becoming a more responsive and successful real estate professional.

Refuse to tolerate noncompliance.

Learn about those who are different from me, and celebrate those differences.

Take a positive approach to fair housing practices and aspire to follow the spirit as well as the letter of the law.

Develop and implement fair housing practices for my firm to carry out the spirit of this declaration.

Appendix B: Sample Self-Assessment Checklist

What happens when a prospect first calls your office?

- What information is given?
- What information is recorded?

What do you do when you first meet a prospect?

- How are they greeted?

What background and contact information do you request?

- Do you request the same information from everyone?
- Do you record this information? How?

How do you initially determine a prospect's needs?

- What questions do you ask?
- Do you make suggestions?
- Do you record this information? How?

What type of qualifying information do you request and when?

- Does it depend on a personal assessment of the prospect(s)?
- Is your method different depending on the price of housing or location requested?
- When does qualifying take place? Does this vary depending upon the prospect or certain circumstances?
- Do you record this information? How?

How are properties chosen?

- Who decides where to look for housing?
- Do you rely on the prospect to make the choices?
- Do you develop a list of properties to inspect?
- What resources do you use to locate properties?
- Does this process vary depending on the prospect?
- Who sets the limits?
- Do you record this information? How?

How are properties shown?

- Do you schedule appointments and accompany the prospect?
- Do you offer a list and suggest the prospect drive by to narrow down the list?
- Do you point out the positive and negative aspects of each property? Some properties? Wait for comments?
- Do you record likes and dislikes? How?
- What materials are provided on the listings?

How are prospects pre-qualified?

- Do you let the prospect determine the price range?
- Do you calculate the price range for the prospect?
- Does this process vary depending upon the price range of housing being sought or your impression of the prospect?
- Do you suggest the prospect be pre-qualified by a lender prior to showing properties?
- Do you require a credit check prior to inspecting properties or submitting a bid?
- Do you use a standard form to record this information?

How is financing information handled?

- Are prospects told they will need to locate their own financing?
- Do you refer prospects to specific lenders?
- Do you explain financing and quote interest rates?
- Is this information recorded? How?

What type of follow-up procedures do you use?

- Are your follow-up techniques more aggressive with some prospects than with others?
- What information is kept on completed sales?
- What information is kept on prospects who do not purchase?

Appendix C: HUD Guidance on Advertising

Although no longer part of federal regulations, the following guidance from HUD concerning advertising and fair housing is useful.

USE OF WORDS, PHRASES, SYMBOLS AND VISUAL AIDS

The following list of words, phrases, symbols and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. In considering a complaint under the Fair Housing Act, the department will normally consider the use of these and comparable words, phrases, symbols and forms to indicate a possible violation of the act, and to establish a need for further proceedings on the complaint if it is apparent from the context of the usage that discrimination within the meaning of the act is likely to result.

1. Words descriptive of dwelling, landlord and tenants:

White private home, colored home, Jewish home, Hispanic residence, adult building

2. Words indicative of race, color, religion, sex, handicap, familial status or national origin:

- *Race:* Negro, black, Caucasian, Oriental, American Indian
- *Color:* White, black, colored
- *Religion:* Protestant, Christian, Catholic, Jewish, Muslim
- *National origin:* Mexican, American, Puerto Rican, Filipino, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino
- *Sex:* The exclusive use of words in advertisements, including those involving the rental of separate units in a single family or multi-family dwelling, stating or tending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living area is involved. Nothing in this part restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.
- *Handicap:* Crippled, blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this part restricts the inclusion of information about the availability of accessible housing in advertising dwellings.
- *Familial status:* Adults, children, singles, mature persons. Nothing in this part restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute "housing for older persons."

3. Catch words:

Words and phrases used in a discriminatory context should be avoided, e.g., restricted, exclusive, private, integrated, traditional, board approval or membership approval.

- **Symbols or logotypes:** Symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status or national origin
- **Colloquialisms:** Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status or national origin
- **Directions to real estate for sale or rent (use of maps or written instructions):** Directions can imply a discriminatory preference, limitation or exclusion. For example, references to real estate locations made in terms of racial or national origin, significant landmarks such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites). Specific directions which make reference to a racially or ethnically significant area may indicate a preference.
- **Area (location) description:** Names of facilities which cater to a particular racial, ethnic or religious group, such as a country club or private school. Designations, or names of facilities which are used exclusively by one sex may indicate a preference.

SELECTIVE USE OF ADVERTISING MEDIA OR CONTENT

The selective use of advertising media or content when particular combinations thereof are used exclusively with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of the Fair Housing Act. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when, in such area, there are also available non-English language or other minority media, may have discriminatory impact. Similarly, the selective use of human models in advertisements may have a discriminatory impact. The following are examples of the selective use of advertisements that may be discriminatory.

- **Selective geographic advertisements:** Such selective use may involve the strategic placement of billboards, brochures or advertisements distributed within a limited geographic area by hand or in the mail, advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community or displays or announcements available only in selected sales offices.
- **Selective use of equal opportunity slogan or logo:** When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic area but not others or with respect to some properties but not others.
- **Selective use of human models when conducting advertising campaigns:** Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or ethnic segment of the population without a complementary advertising campaign that is directed to other groups. Another example may involve use of racially mixed models by a developer at one development and not others. Similar care must be exercised in advertising in publications or other media directed to one particular sex or to persons without children. Such selective advertising may involve the use of human models of members of only one sex or of adults only in displays, photographs or drawings to indicate preferences for one sex or the other or for adults to the exclusion of children.

HUD GUIDANCE REGARDING ADVERTISEMENTS UNDER SECTION 804(C) OF THE FAIR HOUSING ACT*

JANUARY 9, 1995

MEMORANDUM

FOR: FHEO Office Directors, Enforcement Directors, Staff, Office of Investigations,
Field Assistant General Counsel

FROM: Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity

SUBJECT: Guidance regarding advertisements under 804(c) of the Fair Housing Act

The purpose of this memorandum is to provide guidance on the procedures for the acceptance and investigation of allegations of discrimination under Section 804(c) of the Fair Housing Act (the Act) involving the publication of real estate advertisements.**

Recently, the number of inquiries involving whether or not potential violations of the Act occur through use of certain words or phrases has increased and these issues cannot, in some situations, be answered by referring to decided cases alone. In some circumstances, the Advertising Guidelines, published at 24 CFR Part 109 have been interpreted (usually by persons outside of HUD) to extend the liability for advertisements to circumstances which are unreasonable. This guidance is meant to advise you of the Department's position on several of these issues.

Previous guidance already requires that Intake staff review a potential complaint, gather preliminary information to ascertain whether the complaint states a claim under the Act and consult with counsel on any legally questionable matters before the complaint is filed. Likewise, jurisdictional issues such as standing and timeliness should also be established prior to filing.

If the Advertising Guidelines, this memorandum or a judicial decision clearly indicate that the language used in the advertisement is a potential violation of Section 804(c) and the criteria for establishing jurisdiction are met, the complaint should be filed and processed. Any complaint concerning an advertisement which requires an assessment of whether the usage of particular words or phrases in context is discriminatory requires approval of Headquarters FHEO before a complaint is filed. If the advertisement appears to be discriminatory but the Advertising Guidelines, this memorandum or a judicial decision do not explicitly address the language in question, supervisory staff must also obtain approval of Headquarters FHEO before the complaint is filed. Potential complaints regarding advertisements which do not meet the above descriptions should not be filed.

When there is a question about whether a particular real estate advertising complaint should be filed, relevant information regarding the factual and/or legal issues involved in the complaint should be gathered, and counsel should be consulted prior to contacting the potential respondent publisher. The matter should

** Note: This guidance was issued in 1995, but is the most current HUD advice on advertising and fair housing.*

*** This memorandum does not address fair housing issues associated with the publication of advertisements containing human models, and does not address 804(c) liability for making discriminatory statements.*

then be referred to the Office of Investigations for review. Such referrals may take the form of a short memo reciting the applicable advertisement language and any factual or legal analysis which is appropriate.

Section 804(c) of the Act prohibits the making, printing and publishing of advertisements which state a preference, limitation or discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin. The prohibition applies to publishers, such as newspapers and directories, as well as to persons and entities who place real estate advertisements. It also applies to advertisements where the underlying property may be exempt from the provisions of the Act, but where the advertisement itself violates the Act. (*See 42 U.S.C 3603(b)*).

Publishers and advertisers are responsible under the Act for making, printing or publishing an advertisement that violates the Act on its face. Thus, they should not publish or cause to be published an advertisement that on its face expresses a preference, limitation or discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin. To the extent that either the Advertising Guidelines or the case law do not state that particular terms or phrases (or closely comparable terms) may violate the Act, a publisher is not liable under the Act for advertisements which, in the context of the usage in a particular advertisement, might indicate a preference, limitation or discrimination, but where such a preference is not readily apparent to an ordinary reader. Therefore, complaints will not be accepted against publishers concerning advertisements where the language might or might not be viewed as being used in a discriminatory context.

For example, Intake staff should not accept a complaint against a newspaper for running an advertisement which includes the phrase “female roommate wanted” because the advertisement does not indicate whether the requirements for the shared living exception have been met. Publishers can rely on the representations of the individual placing the ad that shared living arrangements apply to the property in question. Persons placing such advertisements, however, are responsible for satisfying the conditions for the exemption. Thus, an ad for a female roommate could result in liability for the person placing the ad if the housing being advertised is actually a separate dwelling unit without shared living spaces. (*See 24 CFR 109.20.*)

Similarly, Intake staff should not file a familial status complaint against a publisher of an advertisement if the advertisement indicates on its face that it is housing for older persons. While an owner respondent may be held responsible for running an advertisement indicating an exclusion of families with children if his or her property does not meet the housing for older persons exemption, a publisher is entitled to rely on the owner’s assurance that the property is exempt.

The following is policy guidance on certain advertising issues which have arisen recently. We are currently reviewing past guidance from this office and from the Office of General Counsel and will update our guidance as appropriate.

1. **Race, color or national origin:** Real estate advertisements should state no discriminatory preference or limitation on account of race, color or national origin. Use of words describing the housing, the current or potential residents or the neighbors or neighborhood in racial or ethnic terms (i.e., white family home, no Irish) will create liability under this section. However, advertisements which are facially neutral will not create liability. Thus, complaints over use of phrases such as master bedroom, rare find, or desirable neighborhood should *not be filed*.
2. **Religion:** Advertisements should not contain an explicit preference, limitation or discrimination on account of religion (i.e., no Jews, Christian home). Advertisements which use the legal name of an entity which contains a religious reference (i.e., Roselawn Catholic Home), or those which contain a religious

symbol (such as a cross), standing alone, may indicate a religious preference. However, if such an advertisement includes a disclaimer (such as the statement “This home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status”) it will not violate the Act. Advertisements containing descriptions of properties (apartment complex with chapel), or services (kosher meals available) *do not* on their face state a preference for persons likely to make use of those facilities, and are not violations of the Act.

3. **Sex:** Advertisements for single family dwellings or separate units in a multifamily dwelling should contain no explicit preference, limitation or discrimination based on sex. Use of the term master bedroom *does not* constitute a violation of either the sex discrimination provisions or the race discrimination provisions. Terms such as “mother-in-law suite” and “bachelor apartment” are commonly used as physical descriptions of housing units and do not violate the Act.
4. **Handicap:** Real estate advertisements should not contain explicit exclusions, limitations or other indications of discrimination based on handicap (i.e., no wheelchairs). Advertisements containing descriptions of properties (great view, fourth floor walkup, walk-in closets), services or facilities (jogging trails) or neighborhoods (walk to bus stop) do not violate the Act. Advertisements describing the conduct required of residents (non-smoking, sober) do not violate the Act. Advertisements containing descriptions of accessibility features are lawful (wheelchair ramp).
5. **Familial status:** Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children or state a preference for adults, couples or singles. Advertisements describing the properties (two bedroom, cozy, family room), services and facilities (no bicycles allowed) or neighborhoods (quiet streets) *are not* facially discriminatory and do not violate the Act.

Please contact Sara K. Pratt, Director, Office of Investigations or Susan Forward, Deputy Assistant Secretary for Enforcement and Investigations, for further information.

Appendix D: NATIONAL ASSOCIATION OF REALTORS® Code of Ethics

ARTICLE 10

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin. *(Amended 1/90)*

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin. *(Amended 1/00)*

Standard of Practice 10-1

When involved in the sale or lease of a residence, REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS® may provide other demographic information. *(Adopted 1/94, Amended 1/06)*

Standard of Practice 10-2

When not involved in the sale or lease of a residence, REALTORS® may provide demographic information related to a property, transaction or professional assignment to a party if such demographic information is (a) deemed by the REALTOR® to be needed to assist with or complete, in a manner consistent with Article 10, a real estate transaction or professional assignment and (b) is obtained or derived from a recognized, reliable, independent, and impartial source. The source of such information and any additions, deletions, modifications, interpretations, or other changes shall be disclosed in reasonable detail. *(Adopted 1/05, Renumbered 1/06)*

Standard of Practice 10-3

REALTORS® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, or national origin. *(Adopted 1/94, Renumbered 1/05 and 1/06)*

Standard of Practice 10-4

As used in Article 10 “real estate employment practices” relates to employees and independent contractors providing real estate-related services and the administrative and clerical staff directly supporting those individuals. *(Adopted 1/00, Renumbered 1/05)*

Appendix E: HUD Equal Housing Opportunity Posters

HUD Equal Housing Opportunity Poster must be posted and maintained in all real estate offices.



**EQUAL HOUSING
OPPORTUNITY**

**We Do Business in Accordance With the Federal Fair
Housing Law**

(The Fair Housing Amendments Act of 1988)

**It is illegal to Discriminate Against Any Person
Because of Race, Color, Religion, Sex,
Handicap, Familial Status, or National Origin**

- In the sale or rental of housing or residential lots
- In advertising the sale or rental of housing
- In the financing of housing
- In the provision of real estate brokerage services
- In the appraisal of housing
- Blockbusting is also illegal

Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination:

1-800-669-9777 (Toll Free)
1-800-927-9275 (TTY)

**U.S. Department of Housing and
Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410**



IGUALDAD DE OPORTUNIDAD EN LA VIVIENDA

Conducimos nuestros negocios de acuerdo a la Ley Federal de Vivienda Justa

(Acta de enmiendas de 1988 de la Ley Federal de Vivienda Justa)

Es ilegal discriminar contra cualquier persona por razón de su raza, color, religion, sexo, incapacidad física o mental, la presencia de niños menores de 18 años o de mujer embarazada en su familia o su origen nacional

- En la venta o renta de vivienda y terrenos residenciales
- En los anuncios de venta o renta de vivienda
- En la financiamiento de vivienda
- Amenazar o interferir con la persona para que no registre su queja
- En los servicios de corretaje que prestan vendedores de vivienda
- En la valoración de vivienda
- También es ilegal forzarle a vender o rentar su vivienda diciendole que gente de otra raza, religion o grupo etnico se estan mudando en su vecindario

Cualquier persona que sienta que fue discriminada debe de enviar su queja de discriminacion:

1-800-669-9777 (llamada gratis)
1-800-927-9275 (TDD llamada gratis)

U.S.Department of Housing
and Urban Development
Assistant Secretary for Fair Housing and
Equal Opportunity
Washington, D.C. 20410

Appendix F: Prospect Equal Service Report Form

Prospect Equal Service Report

Date:		Sales Associate:		Office:	
Prospect Information					
Name:			Name:		
Address:			Address:		
Home phone:		Work phone:		Work phone:	
<input type="checkbox"/> Owns now	<input type="checkbox"/> Rents now	<input type="checkbox"/> Must sell to purchase	<input type="checkbox"/> Owns now	<input type="checkbox"/> Rents now	<input type="checkbox"/> Must sell to purchase
Race*		Race*		Race*	
<p>*For affirmative marketing purposes. Information on prospect race is sought to assist in monitoring the firm's commitment to equal professional service. Article 10 of the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics states in part: REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, familial status, handicap or national origin. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, familial status, handicap or national origin.</p>					
Prospect came to us as a result of:		<input type="checkbox"/> Walk-in	<input type="checkbox"/> Past Customer	<input type="checkbox"/> Sign	<input type="checkbox"/> REALTOR.com
<input type="checkbox"/> Referral (source):		<input type="checkbox"/> Ad (source):	<input type="checkbox"/> Phone solicitation	<input type="checkbox"/> Mail solicitation	<input type="checkbox"/> Other Websites
Prospect Needs and Wants					
Prospect wishes to:		<input type="checkbox"/> Purchase	<input type="checkbox"/> Rent	Possession Date:	
Prospect's price range preference:		Purchase price range:		Rental (use rental form):	
Prospect requested locations:					
Type of home:		# of bedrooms:	# of baths:	<input type="checkbox"/> Dining room	<input type="checkbox"/> Family room
<input type="checkbox"/> Fireplace	<input type="checkbox"/> Garage	Other features:			
Does the prospect desire information regarding housing for older persons? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If so, is any member of prospect's household over 55? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Service Provided					
Was prospect asked questions regarding his/her finances? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, indicate information obtained.		Income:	Down payment:	Other (specify):	
Was prospect offered information on financing options? <input type="checkbox"/> Yes <input type="checkbox"/> No Indicate any rate information provided.		<input type="checkbox"/> Conventional/ fixed rate	<input type="checkbox"/> Adjustable rate	<input type="checkbox"/> FHA/VA	<input type="checkbox"/> Other (specify):
Did you financially qualify the prospect? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable If yes, attach worksheets. If yes, qualified purchase price:			Did you refer the prospect elsewhere for financial qualification? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable If yes, to whom: If yes, qualified purchase price:		
Contact Dates and Comments					

Property Shown: Please complete page 2 of this form and attach any additional information needed.

Appendix G: Recommended Fair Housing Procedures

The NATIONAL ASSOCIATION OF REALTORS® recommends the following fair housing procedures for use by REALTORS®. Individual firms should adopt either these procedures or those suggested by their local board or should develop procedures which, at a minimum, are consistent with those recommended by the board of the National Association.

POLICY STATEMENT

The broker/owner of _____ (company/firm) is unequivocally and firmly committed to the principle of equal opportunity in housing and the provision of equal professional services without discrimination based on race, color, religion, sex, handicap, familial status or national origin.

Fair housing is a serious matter. The management of this company has the legal, ethical and moral responsibility to do everything in its power to prevent any associate (licensees, salespersons or employees associated with the company) from committing any act or making any statement that could be perceived in any way discriminatory based on race, color, religion, sex, handicap, familial status or national origin. Management must first make certain that all its associates are aware of company policy in regard to listing property, showing homes, negotiating offers and serving the needs of buyers, sellers, property owners and prospective tenants without discriminatory effect.

The information in this manual sets forth those policies. They have been developed to ensure that the company and all its associates comply with both the letter and the spirit of the fair housing laws. These policies ARE NOT RECOMMENDATIONS; they must be followed by everyone associated with the company.

The broker/owner and company may be responsible for the acts of associates in fair housing matters. This company may not be in a position to defend associates charged with violations unless these policies and procedures are strictly followed. *Therefore, acts of discrimination will be grounds for termination of employment or the independent-contractor agreement.*

Fair Housing Officer

The fair housing officer for the company is _____, who will be responsible for training and will deal with fair housing issues and concerns. Cooperation with the fair housing officer is required during investigations of alleged discrimination or in the review of equal service records.

Public Commitment

The broker/owner of this company is firmly and unequivocally committed to the provision of equal professional services and to the principle of fair housing for all. The procedures and requirements that follow are designed to implement that commitment, and all associated with the company are expected to share in that commitment and its implementation.

Poster

The HUD Equal Opportunity Equal Opportunity Poster will be displayed in a prominent place in each company or office.

Company Brochure

If produced, an informational/promotional brochure outlining company services must contain a statement of the company's commitment to equal opportunity. The brochure will be distributed to all prospective clients, homebuyers and renters. The company's fair housing commitment must be discussed with all clients and prospects.

Advertising and Marketing

- All advertising for the sale or rental of housing will indicate to the general public that the housing is open to all persons and is designed to attract buyers and renters without regard to race, color, religion, sex, handicap, familial status or national origin.
- All display advertising will include an official equal housing opportunity slogan or logotype at least 1/2" x 1/2".
- Each classified advertisement of six column-inches or larger will include an official equal housing opportunity slogan or logotype unless the HUD "publisher's notice" appears on the lead page of the classified advertising section.
- All brochures, circulars, billboards and direct-mail advertising will include an official equal housing opportunity slogan or logotype.
- All signs (for sale, sold, etc., excluding those in inventory as of the date the firm adopted these procedures) will contain an official equal housing opportunity slogan or logotype.
- All other forms of advertising, including business cards, will contain an official equal housing opportunity slogan or logotype, except when the broker determines that its inclusion significantly increases the cost of advertising.

Using Human Models

In advertising that uses human models to suggest lifestyle or residents, whether in a photograph, drawing or other graphic technique, the models should reasonably represent majority and minority racial groups in a way that is clearly definable and numerically representative of the metropolitan area. In no instance should the use of human models indicate exclusiveness because of race, color, religion, sex, handicap, familial status or national origin. All advertising using human models must be approved by the fair housing officer.

Solicitation/Canvassing for Listings

Although canvassing is a common method for obtaining listings, uninvited solicitations have, in some instances, been construed as panic peddling. Prior to a canvassing campaign, the associate must inform the fair housing officer of the area and general message of the canvass. The fair housing officer has the authority to delay the canvass for review by the broker, who retains final authority on canvassing campaigns that may raise issues related to fair housing. Phone and fax solicitations may be subject to legal restrictions other than those found in fair housing laws.

Training

It is highly recommended that all associates attend training in fair housing law and obligations and the company's fair housing procedures. Such training will be provided in-house or at the board of REALTORS®' new member orientation.

The company will make available ongoing training, at least annually, in fair housing law, obligations and the company's fair housing procedures. Staff meetings will address fair housing issues on a regular basis. All associates are encouraged to raise fair housing concerns for discussion.

Equal Professional Service Procedures

All associated with the firm will provide equal professional service without regard to a buyer's, seller's or prospective tenant's race, color, religion, sex, handicap, familial status or national origin. Areas where consistent service will be provided include, but are not limited to, the following:

- Arranging appointments and making callbacks
- Greeting prospects when entering or calling the office
- Acts of courtesy and hospitality
- Initial meeting to discuss needs
- Qualifying and financing information requested and given
- Personal information required
- Availability, location and quality of properties presented for consideration and showing
- Keeping appointments
- Follow-up procedures
- Method of determining which properties to show

Prohibited Actions

1. During the conduct of business, no associate will make any statement or perform any act that could:
 - Imply that the presence or anticipated presence in a neighborhood of persons of any race, color, religion, sex, handicap, familial status or national origin will or may have results such as lowering of property values, changing the composition of the block or neighborhood, making the area less safe or contributing to a decline in the quality of the schools.
 - Imply that persons of a particular race, color, religion, sex, handicap, familial status or national origin will be less able to obtain financing on a property.

- Imply that we adhere to racial, color, sexual, family, religious, national origin or handicap stereotypes that might result in different treatment of minority groups in the sale or purchase of housing, including telling jokes, making derogatory remarks to one another or to agents or employees of another company, to a buyer or seller or anyone who might become a buyer or seller or who might be in a position to report our remarks to others.

Comments: While remarks may be made and jokes may be told with no discriminatory intent on the part of the speaker, a listener may interpret such statements to indicate a willingness on our part to discriminate. It should be emphasized that when we hear such remarks and statements and remain silent, silence is interpreted as assent.

Any associate or employee who hears such remarks must recognize the danger to the livelihood of all of us in the company in allowing them to pass unnoticed. The license of the person who made the remarks, as well as the licenses of those who hear it or know about it and do nothing may be in jeopardy.

It is the responsibility of all of us to help those who may be in violation and not realize it. For your own protection as well, it is suggested that upon hearing or learning of questionable statements or incidents, the licensee or employee should disassociate himself or herself from the sentiment expressed and seek assistance directly from the company's fair housing officer.

2. No associate shall make any representation, either directly or by innuendo, that a neighborhood will be difficult/easy to sell because of the presence or absence of persons of a particular race, religion, color, sex, familial status, national origin or handicap—that it is more or less safe, that schools are better or not as good, or that property values are increasing or decreasing.
3. No associate shall refuse to list or show a property in a market area served by the company because of the presence/absence of persons of any particular race, color, religion, sex, handicap, familial status or national origin.

Listing Procedures and Working with Sellers

While making any listing presentation or listing property occupied as, or intended for, occupancy as a residence by one or more persons, the following procedures shall be followed:

1. Fair housing law must be discussed with a seller at the time of listing, the fair housing brochure reviewed and unequivocal commitment to abide by the law obtained, as follows:
 - Read the fair housing clause contained in the listing agreement.
 - Give a *What Everyone Should Know About Equal Opportunity in Housing* brochure to the sellers.
 - Review the contents of the brochure.
 - Refuse any listing where the sellers are not in agreement.
2. Any seller who refuses to abide by the law and whose listing was therefore refused by the licensee must be reported immediately to the fair housing officer or broker.
3. Any seller who makes a home unavailable for showing on account of race, color, religion, sex, familial status, national origin or handicap shall be reported to the fair housing officer or broker.
4. Any apparent or suspected discriminatory act or statement on the part of a seller in rejecting or countering an offer must be reported immediately. Proper guidance in what to relay back to the buyer must be obtained prior to delivery of the rejection or counteroffer by checking with the fair housing officer or broker.

Working with Prospective Buyers

Consistent interviewing and qualifying techniques must be used with all buyers and adequate records must be maintained by associates to demonstrate that all buyers are given equal treatment. Using consistent and systematic procedures, the associate will obtain objective information regarding the prospect's needs and wants, let the customer set the limits and provide a variety of choices.

Equal Service Report Form

All associates shall use the company's Equal Service Report form with all prospects, including renters. This form will be completed following each in-person meeting with all prospects. All sections of the form must be completed; if a section is not applicable, so indicate.

1. A copy of the Equal Service Report form must be submitted to the fair housing officer following completion of the first showing or within 30 days if no showings occurred, whichever comes first.
2. The associate will update the form after each contact with the prospect and provide a copy of the form to the fair housing officer.
3. The associate will attach a list of all properties that meet the prospect's qualifications to the Equal Service Report form to be retained in permanent files. These records must be kept for five (5) years (determined by statute of limitations in state law).

Financial Qualifications

All associates will use consistent and uniform methods to qualify all prospects, as follows:

1. All prospects must be asked only the questions in the company's qualifying form—no more and no less. Information must be recorded.
2. The company's procedures for calculating qualified purchase price must be followed and that qualified price provided to the prospect along with a copy of the qualifying form.
3. Information on all financing options identified by the company will be provided to the prospect. When a prospect does not request a specific type of financing, qualification will be calculated using the financing option identified as the company's standard (e.g., conventional financing).
4. Under no circumstances is any prospect to be directed to or away from any specific type of financing, including FHA, because of race, color, religion, sex, handicap, familial status or national origin.

Property Offered and Shown

1. A list of properties will be prepared for every prospect in the area requested by the prospect. When a prospect does not request a specific area, all areas should be designated. These are to be reviewed with prospects so they (NOT YOU) can determine the properties they would like to see. A copy of the lists are to be retained in the associate's permanent file.
2. All prospects will be informed that any available property in the market area within the buyer's price range and objective criteria is available for showing, and associates will offer to show any such properties. Additionally, associates will offer to show properties in other geographic areas when those properties are otherwise within the buyer's price range and objective criteria.

3. Prospect comments regarding individual properties, features or areas are to be noted on the equal service report form.

Working with Cooperating Brokers/Agents

All licensees and employees will be equally cooperative with brokers or agents who serve predominantly minority buyers or with agents who we know or think are working with minority buyers as they are with all other brokers and agents in terms of setting up showings, making keys available, setting appointments to present offers or conducting negotiations.

Working with Rental Properties

The company will develop consistent procedures and policies to financially qualify prospects for rental properties. To the extent applicable, the following procedures should be followed:

- **Availability:** All available rental properties must be listed on the rental property master. When a property is no longer available, notation must be made on the master. All prospects shall be shown the master or an up-to-date copy which lists addresses, sizes and rental rates of available apartments.
- **Terms and conditions:** Rental terms and conditions must be established or approved by the broker/owner for each property before it is offered for rent. Those terms and conditions then must be applied consistently without regard to the race, color, religion, sex, handicap, familial status or national origin of the prospect or of persons residing in or near the property. Applicable terms and conditions include application fees, deposits, credit check fees, security deposits, lease terms, discounts and amenities.
- **Application processing and tenant selection:** Applications, with attached outline of application procedures, must be offered to each prospective tenant and must be submitted promptly for evaluation. Under no circumstance is the race of the applicant to be noted on the application, nor should the Equal Service Report be attached to the application. (A copy of the application will be attached to the Equal Service Report after a decision is made on the application.)

Applications must be evaluated based on objective criteria established by the company. Applications will not be accepted if information necessary for such evaluation is missing. In such cases, the associate must explain this policy to the applicant and request that the missing information be included.

- **Waiting lists:** Waiting lists for properties must be established with the approval of the broker. All prospects must be informed if such a waiting list exists, of the number of persons on the list and that selection will occur in the order that names were placed on the list.

When a selection is made, the prospect will be contacted by telephone and mail and invited to complete an application. *In no instance shall a person be dropped from a waiting list unless approved by the fair housing officer.*

Recordkeeping

Records must be kept for all properties and all prospects. The Prospect Equal Service Report must be completed after the first contact with a prospect in which such identifying information as name, phone number or address is obtained, or after the first in-person contact.

All records associated with a prospect must be kept on file for at least five years. Central file space for records may be used, provided the files are marked with a prospect's name and dates of service (first and last). These records or files remain the property of the firm.

Customer Feedback

All prospects and clients will be encouraged, through distribution of the company brochure, to contact the fair housing officer with comments or concerns about equal professional service. Additionally, all prospective buyers, sellers, owners or renters who do not wish to list, purchase or rent with the company will be asked to complete a customer service survey. Such surveys are to be returned to the fair housing officer.

Hiring and Recruitment Policies

This company will affirmatively recruit persons of all racial and ethnic groups, of both sexes, with and without disabilities, and individuals otherwise protected from discrimination by the Fair Housing Act, as salaried employees and independent contractors.

All advertising for salaried employees and independent contractors will contain the phrase “Equal Employment Opportunity.” Each salaried employee and independent contractor, as a condition of employment or contract with the firm, must sign the following statement:

Agent Agreement to Follow Policy

I have attended a fair housing seminar and have been given written information about fair housing laws and company policy and procedures. I understand what is required of me and agree to comply with all applicable fair housing laws and related policies and procedures in conducting business.

Date

Signature

Community Participation

This company is part of the community, and encourages participation in board-sponsored fair housing and community outreach activities. The fair housing officer will coordinate such company participation and should be informed of all community fair housing concerns.

Responses to Possible Discrimination

Alleged acts of discrimination, whether by associates of this or another firm or by members of the public, are to be immediately brought to the attention of the fair housing officer. It is the policy of this company to cooperate in the investigation of fair housing complaints and, when appropriate, to file complaints on behalf of associates of this firm.

When working with prospects or clients who may be victims of discrimination, the fair housing officer will determine how best to assist them in protection of their fair housing rights. When a client refuses to comply with fair housing laws, the firm will disassociate itself from the listing.

Report Incidents of Harassment

Any incident of harassment of sellers, buyers or sales agents in violation of fair housing laws will be promptly reported to the fair housing officer and appropriate authorities, which may include local or state police, local or state human rights agencies, the U.S. Department of Justice, HUD or the FEI.

Quality Control

The management of the firm will review compliance with these procedures on a regular basis. All associates must cooperate with that review and will provide copies of records when requested.

Corrective Action and Discipline

The fair housing officer and broker/owner will review any apparent act or statement in violation of these procedures or the fair housing laws and will decide on further action. Depending on the severity of the act or statement and the relationship between the associate and the firm, actions may include further training and education, or termination of employment or of the independent contractor agreement.

(Date last revised: 02/12/1996)

Appendix H: Advice on Reporting Acts of Discrimination

When working in the housing market, you may encounter situations which appear to be discriminatory in violation of fair housing laws. In order to protect the prospective home seeker's rights to equal opportunity in housing and to keep yourself from participating in those discriminatory acts, you need to take the following steps:

If the party discriminating is your client or is not a client of any other REALTOR®:

Talk to the party who appears to be violating the law and explain fair housing laws to that person. Ask that person to act in a nondiscriminatory fashion. This often resolves the matter and results in the home seeker obtaining access to housing as guaranteed by fair housing laws. Follow up with a letter summarizing your discussion.

If the party discriminating is a client of another REALTOR®:

Talk to the other REALTOR® and explain your concerns. Ask the other REALTOR® to speak with the client and end the discriminatory behavior. Follow up with a letter summarizing your discussion.

If the discrimination is not ended and the party discriminating is your client:

End your relationship with that client, i.e., terminate the listing. Inform the home seeker regarding what has occurred and your belief that discrimination was involved. Provide the home seeker with information on where to file a complaint. Follow up with a letter to the client and to the home seeker summarizing your discussions and actions taken.

If the discrimination is not ended and the party discriminating is not your client:

Inform the home seeker regarding what has occurred and your belief that discrimination was involved. Provide the home seeker with information on where to file a complaint. Follow up with a letter to the home seeker summarizing your discussion.

If the discrimination is not ended and the party is another REALTOR®:

In addition to the above, you may file an ethics complaint with the board alleging violation of Article 10 of the Code of Ethics.

AGENCIES TO WHOM ACTS OF DISCRIMINATION MAY BE REPORTED

- U.S. Department of Housing and Urban Development
1-800-669-9777
1-800-927-9275 (TTY)
- State and local government human rights or civil rights agencies
- Private fair housing groups

PROTECT YOUR OWN FAIR HOUSING RIGHTS

- You may also have a cause of action against the discriminating party and file a complaint on your own behalf
- You may report any incident of discrimination to an appropriate agency without filing a complaint.

(Date last revised: 02/12/96)

Appendix I: Buyer Representation Agreement Fair Housing Language

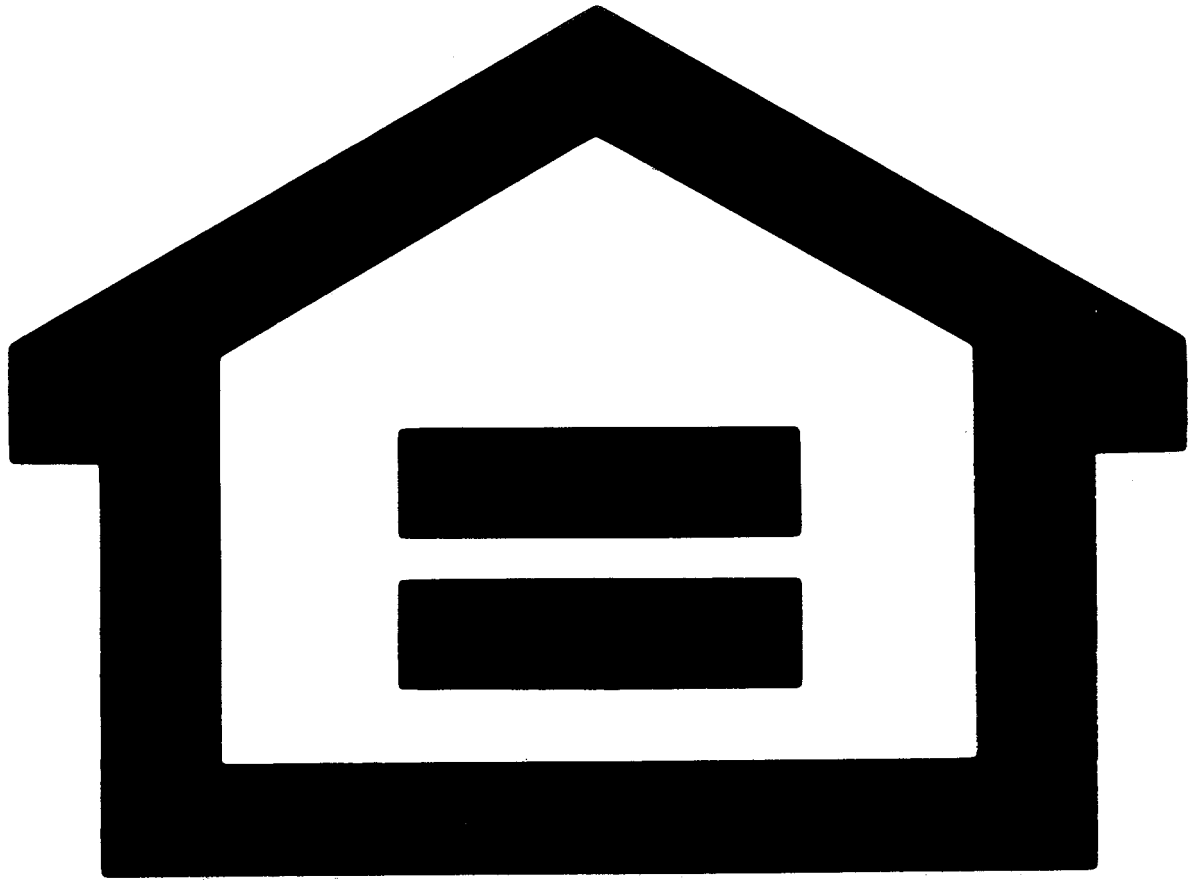
NAR recommends that you include this or similar language in your buyer representation agreement to indicate your firm's commitment to equal housing opportunity and to state that the agent has no duty to disclose information on race, color, religion, sex, familial status, handicap or national origin.

It is the policy of the _____ (firm name) to abide by all local, state and federal laws against discriminating against any individual or group of individuals for any reason whatsoever.

The agent has no duty to disclose the racial, ethnic or religious composition of any neighborhood, community or building, nor whether persons with disabilities are housed in any home or facility, except that the agent may identify housing facilities meeting the needs of a disabled buyer.

(Date last revised: 02/26/96)

Appendix J: Equal Housing Opportunity Logo



**EQUAL HOUSING
OPPORTUNITY**

*fair*housing



Shared Neighborhoods, Equal Opportunities

© 2015 NATIONAL ASSOCIATION OF REALTORS®
All rights reserved.

430 North Michigan Avenue • Chicago, IL 60611-4087
800.874.6500 • www.REALTOR.org

166-1084
(01/15)



NATIONAL
ASSOCIATION *of*
REALTORS®