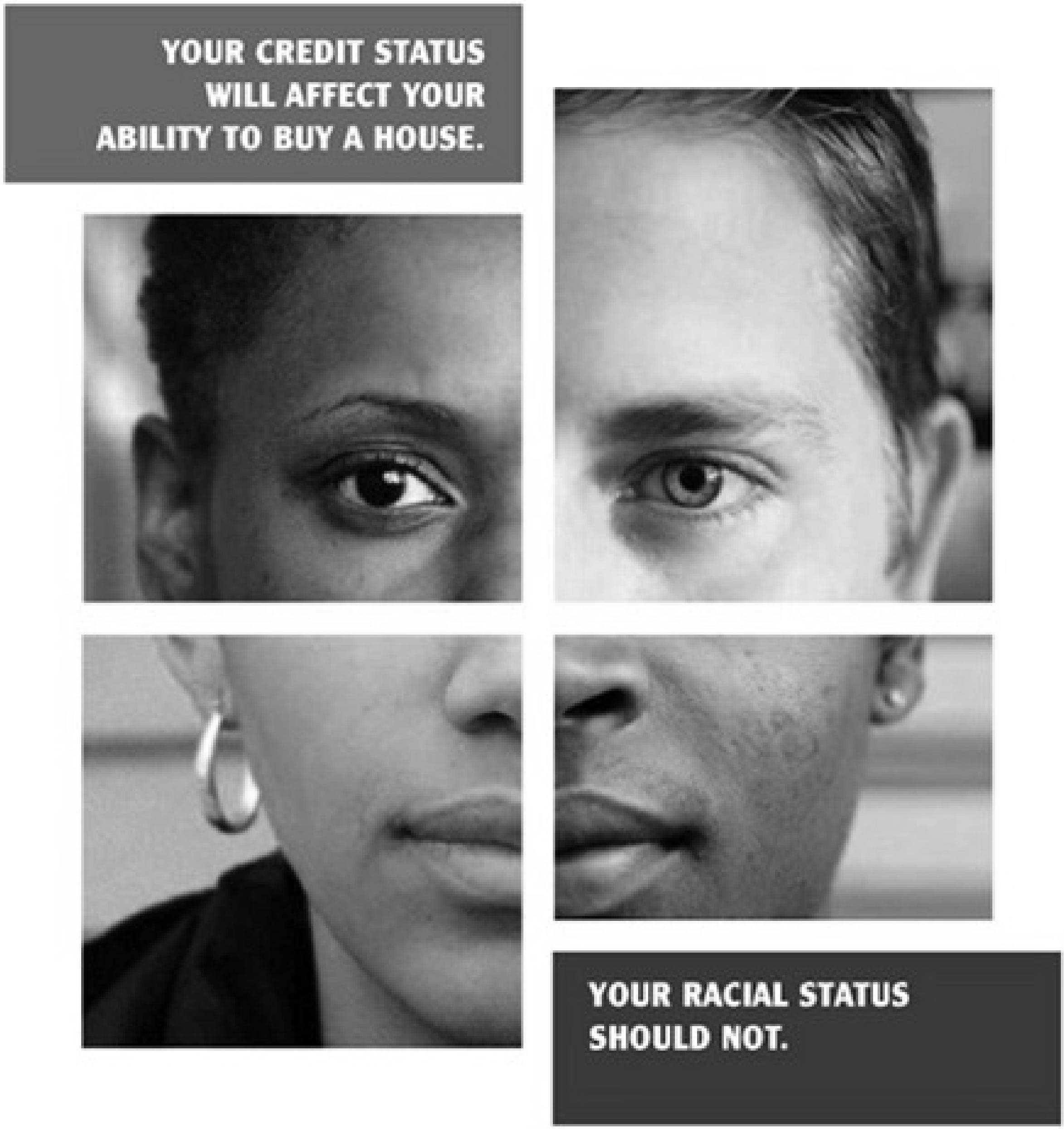

Fair Housing and the Americans with Disabilities Act

4 Hours of Continuing Education Credit

ITS School of Real Estate

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ITS School of Real Estate

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ITS
School of Real Estate

Fair Housing and the ADA

4 Hours CE Credit

Answer Sheet

2011-2012

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You will receive an email with your grade promptly, then please submit payment through the Payment Window on our website... ITSBusinessTraining.com

Learning Objectives…

This four (4) hour course for continuing education credit is designed not only to help you meet your required educational requirements, but also to examine the Federal laws as a collective whole that strive for consumer equality in both choices and opportunities. Often when we discuss fair housing issues, we focus on overt discrimination. Although this in abundant in our society, a far more common situation is the quiet and often effective limiting of a consumers choices and opportunities by a real estate professional.

We will first look at the fair housing laws, and work through case studies of situations where real estate professional have both succeeded and failed. Secondly, we will look at the American with Disabilities Act. We will look at how the ADA affects your real estate office both as an employer and as a professional. Finally we will look at the Federal antitrust laws and discuss how these laws are also created and intended to protect consumer choices and how the real estate profession through its conduct can limit these consumer choices.

I hope you enjoy this study and take something away from this course. These Federal laws are to ensure that your clients have every possible choice and opportunity presented to them. We must all work hard every day to make sure our habits, our own preferences, and even our opinions stay out of our professional responsibilities.

Workbook materials by John Wilkinson

EQUAL HOUSING
OPPORTUNITY

FAIR HOUSING IS THE LAW!

Fair Housing Law and Anti-Trust Legislation

It is necessary to do a full and thorough review of both the Fair Housing Laws and the Anti-Trust laws because in the realities of day to day practice, it is easy to unintentionally violate these laws without malice or fault. These laws cover such a wide range of issues, nearly every advertising, marketing, and employment decision a Realtor makes must be proofed to determine if the advertising or marketing is in compliance with these standards.

Let's first look at the Fair housing laws…

It must first be noted, the Federal Fair Housing laws are not found in a single work of legislation. The current law we have to today is a compilation of multiple laws and judicial interpretations. The law has taken baby steps for over 150 years to arrive at the current interpretations we have today.

1866: The Civil Rights Act of 1866

This single piece of legislation marked the beginning of the federal government's attempt to ensure housing equality for all of its citizens. Passed in the months following the conclusion of the Civil War, the congress declared "All citizens of the United States shall have the same right in every state and territory as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, convey real and personal property." This piece of legislation created Fair Housing's first protected class…Race.

1962: Executive Order No. 11063

This Presidential Order signed into law by President John F Kennedy prohibited discrimination in housing credit practices of both the FHA and VA loan programs. This order cleared the way for the Creation of the ECOA which is the Equal Credit Opportunity Act. This act was passed by Congress and prohibited discriminatory practices in credit granting and determination.

1968: Title VIII of the Civil Rights Act

This is by far the most sweeping and comprehensive part of today's Fair Housing Laws. Title VIII created multiple "protected classes" including race, color, religion, or national origin. This act declared it was unlawful to discriminate against these protected classes when selling or leasing residential property. It must also be noted, that Title VIII did allow for some limited circumstances and situations that were exempt from compliance of Title VIII.

1974: Housing and Community Development Act

This act was an extension of the policies set down by the 1968 Title VIII with the addition of another protected class. For the first time, sex was added as a protected class. This act made it unlawful to use gender as a defining or determinant factor in housing decisions.

1988: Fair Housing Amendment Act of 1988

Like the 1974 act, with this legislation Ronald Reagan signed into law policy that created two addition protected classes. "Handicapped" and "familial status" are the final two protected classes.

The "handicapped" class requires further explanation. A handicap is a physical or mental impairment. This includes having a history of or being regarded as having an impairment that substantially limits one or more of an individual's like activity.

For example an AIDS patient would be protected under this protection, but a drug abuser would be excluded.

The "familial status" class is another class that creates confusion in the minds of many. This classification basically protects against discrimination of families with children. Technically, familial status refers to the presence of one or more individual who not yet reached the age of 18 and who live with either a parent or guardian.

With the exception of housing intended and property designated for older persons (See official FHA guidelines for more details), all properties must be made available to families with children under the same terms and conditions as to anyone else.

Discriminatory Housing Practices:

Federal Fair Housing Laws prohibit the following discriminatory acts…

1. Refusing to sell, rent, or negotiate with any person or otherwise making a dwelling unavailable to any person

   "This is a 1 bedroom apartment; there is just not any room for you and your three kids"

2. Changing terms, conditions, or services for different individuals as a means of discrimination

   This could be as simple as requiring a credit check for minority applicants while you skip this step for white applicants.

3. Practicing discrimination through any statement or advertisement that restricts the sale or rental of residential property

   "No Kids" or "Adults Only"

4. Representing to any person, as a means of discrimination, that a dwelling is not available for sale or rental.

   Testers have been known to test landlords with different applicants to see if the landlord will make a "rented" property available to non minority applicants .

5. Making a profit by inducing owners of housing to sell or rent because of the prospective entry into the neighborhood of persons of a particular protected class

   See Blockbusting in the pages to follow

6. Altering the terms or conditions for a home loan to anyone in any MLS, Real Estate Broker's Organization, or other facility related to the sale or rental of dwelling as a means of discrimination.

See Redlining in the sections to follow

7. Denying people membership in any MLS, Real Estate Broker's Organization, or other facility related to the sale or rental of dwelling as a means of discrimination.

> This is discrimination by Realtors and firms against other Realtors who are members of a minority group or protected class

Exemptions to Fair Housing Laws…

1. The sale or rental of a single family home is exempted when the home is owned by an individual who does not own more than three such homes at one time, when a broker or salesperson is not used. If the owner is not living in the dwelling at the time of the transaction or was not the most recent occupant, only one such sale by an individual is exempt from the law within any 24 month period.

2. The rental of rooms or units is exempted in an owner-occupied one-family to four family dwelling.

3. Dwelling units owned by religious organizations may be restricted to people of the same religion if membership in the organization is not restricted on the basis of race, color, national origin, handicap, or familial status.

4. A private club that is not open to the public may restrict the rental or occupancy of lodgings to its members as long as the lodgings are not operated commercially.

5. Housing intended for older persons is exempted from the familial status classifications if…it is occupied solely by persons 62 years of age and older; or 80% of its units are occupied by at least one person 55 or older and meets certain guidelines.

Housing Violations by the Real Estate Professional

Blockbusting…

The fair housing guidelines prohibit agents from using panic peddling commonly known in the real estate profession as blockbusting, to sell homes or induce owners to sell. This practice is used to create a sense of urgency or panic in the mind of homeowners by making representations regarding the entry or possible entry of a protected class. The suggestion is commonly made that the home values and safety of the area which likely be compromised.

Steering…

This is the practice of channeling members of a particular protected class or group into any area on the assumption that a particular area has or does not have members of the same protected class. Steering is often subtle and can be done unintentionally by a careless agent. This practice effectively limits the choices of the homebuyer and limits potential buyers for a home that is for sale in other areas.

Redlining…

The practice of refusing to make loans or issue insurance policies in specific areas without regard to the economic qualifications of the applicant is known as redlining. This policy often targets an area that has a high concentration of at least one minority group.

Fair Housing Questions…

What are the seven protected classes?

1.
2.
3.
4.
5.
6.
7.

1866 legislation created the first protected class. What was it?

What classes were created by the landmark Title VIII legislation in 1968?

In what year was “sex” added as a protected class?

What were the final two classes added to the group of seven?

After reviewing the discriminatory practice action #1, would a landlord with 20 rent houses be guilty of a discriminatory action if he or she did not return the phone calls of interested applicants if the applicants name indicated a possible clue to the applicant's ethnic background? Do you believe that a landlord can be discriminatory with simple inaction verses an open and visible act?

Why does it matter that the landlord own and operates "20" rental properties?

After reviewing discriminatory practice action #2 , the use of credit scoring is an accepted and common means of screening applicants, but what would be a unacceptable use of this credit scoring when screening applicants?

After reviewing discriminatory practice action #3, can a landlord advertise an apartment for rent and expressly prohibit…."no single women"?

After reviewing discriminatory practice action #4 , give an example of this type of discrimination.

After reviewing discriminatory practice action #5 , what is another name for this?

After reviewing discriminatory practice action #6 , what is another name for this?

After reviewing discriminatory practice action #7 , can a broker's hiring decisions be regulated by the Fair Housing Laws….?

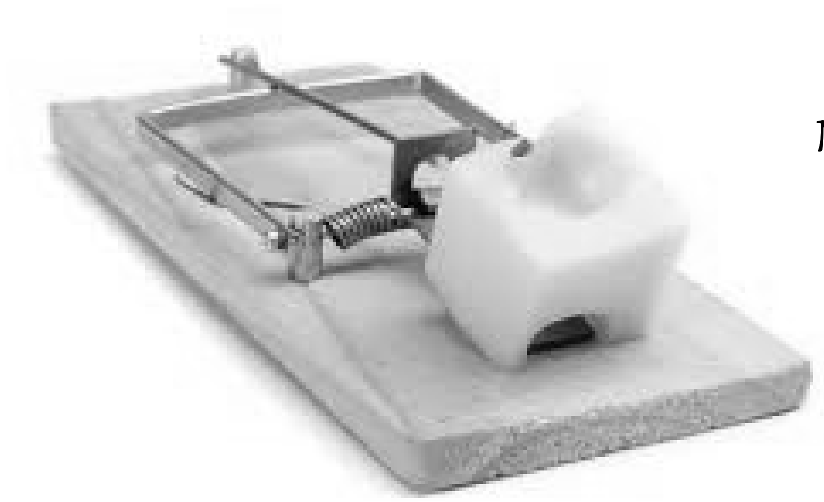
Yes or No

After reviewing the exemptions to the Fair Housing rules, can a church limit the rental of a church owned home to member of its congregation?

Yes or No

What condition is put upon this exemption?

The Fair Housing Laws allow exemptions for Housing unit intended for and marketed to older clients. What are the conditions put upon this exemption?



Don't get caught

NOT knowing the rules!!!

Advertising Guidelines…

In the real estate profession, agents will be asked daily to create, insert, or distribute some form of marketing or advertisement. Each and every one of these advertisement must be carefully vetted to assure compliance with Fair Housing standards.

"No printed or published advertisement of property for sale or rent can include language that indicates any discriminatory preference or limitation, regardless of how subtle the choice of words."

What are Considered Advertisements?

Advertisements include flyers, brochures, billboards, mailings, radio, TV ads, newspapers and magazines, signs, business cards, and statements.

The Specific FHA Advertising Statutes

In 1972 HUD Advertising Regulations where put into effect… 24 CFR Part 109
In 1989 much more detail interpretations were provided, such as…

Section # 804 of the federal fair housing law states it is against the law to "make, print, or publish any notice, statement, or advertisement, with respect to the sale/ rental of a dwelling that includes any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or handicap.

In addition to these limitations, all advertisements for housing, including lending, should contain the Equal Housing Opportunity slogan or logo according to HUD regulations. At all times, it must be clear and legible and at least equal in size to other logos appearing in the advertisement.

Who may sue under FHA guidelines?

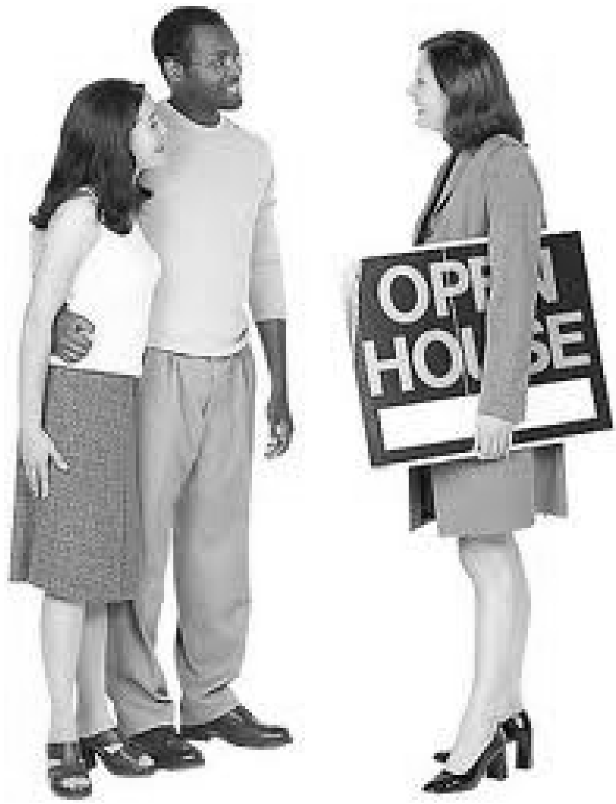
A lawsuit alleging a fair housing violation can be filed by any individual who was deterred in their housing search on suffered emotional injury, any of the fair housing organizations, and the federal government.

When a suit is filed by an individual, the courts have the options of awarding the plaintiff compensatory damages, punitive damages, and/or specific performance. It is also important to note that the judge can order the defendant to pay the plaintiffs' legal and attorney's fees. Jury awards for plaintiffs have reached as high as two million dollars in some jury trials.

If the federal government files a FHA suit, the plaintiff (US Gov.) alleges that the defendant is operating under a "pattern or practice" of discriminatory behavior, or the case poses "general public importance." The courts look for a pattern of discriminatory behavior, not for single indiscretions.

In addition to monetary damages, the courts can assess a civil penalty in the amount of $50,000 for a first offense, and $100,000 for an additional offense.

Human Model Advertising…



A picture is not just a picture

One of the most controversial and subjective sections of the HUD Fair Housing Advertising regulations is the topic of "*Human Models*."

If models are used in display adverting **campaigns,** *the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and when appropriate, families with children. Models when used should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one group.*

Although very subjective, the intention is to prevent the reader or viewer from interpreting the housing as **exclusive** to one particular group, or portraying **a preference** to a group.

What is an advertising "Campaign" ?

In the provided regulation on the previous page, I highlighted the word "campaign". When does using a human model photo become a campaign and become subject to these regulations? The answer is not so simple…

The use of human model photos must be viewed in the totality of the whole advertising for a particular client. A recurring weekly ad that has two white males in workout attire over a three month period can be argued to be a campaign stating a preference for acceptable applicants. Whereas, this same photo used 25% of the time and mixed with photo of families and minority group models would not be discriminatory. The photo of two white males, is not discriminatory, the long term repeated use of this photo is what the crosses the line.

This is not to say that an advertising campaign is determined only by the length or by the number of times it is run. A single ad for a housing community with 100 residents grouped in front of the gated entrance could be considered an advertising campaign is some cases. What if the picture is entirely made up of white residents? What message is sent to minority applicants by 100 white residents standing at the gate? The issue with this example is the overall mass of human models and not the number of times the as has run. A licensee should try to use images with diversity of race, gender, and economic situations.

Let's add a twist to this example…

What if you are selling a number of homes in a gated community and your ads link or encourage the potential buyer to visit this community's webpage. The webpage's opening image is the 100 residents at the gate picture that we discussed before. This picture is not of human models, but of the actual residents at this year's annual barbeque.

Does this make a difference? Does it matter that you did not post the picture? Is your advertisement discriminatory with the inclusion of this website or photo?

The answer is subjective. In my opinion, the website link should be excluded, some would disagree. The reality is that situations like these will be part of the real estate profession's struggle to comply with these rules. In the following pages we discuss strategies for firms and agents to have answers for these questions and plan for the times when legal counsel is necessary.

The next issue we must discuss in the study of "human model" advertising is this concept of **Metropolitan Area**. The racial makeup of an advertising campaign's area is not to be limited to the subdivision, suburb, or even the town in which you focus your real estate marketing. The racial makeup of your advertising is to include the groups represented in your greater metropolitan area as an inclusive whole. If your live, work, and market exclusively in the Smallville community that is 98% white and use human models that are white… 98% of the time, you are not representing your greater metropolitan area, but rather you are representing a small subset and continuing to reinforce the racial patterns that are already in effect.

Following this same line of reasoning, the use of a single income bracket can also pose a discriminatory intent or unintended effect. The price of a listing must not have an effect on the decisions and use of human models… The representation of the greater metropolitan area is the standard to be modeled.

Selective Placement of Advertising

The HUD regulations make it clear that real estate professionals are not to engage in advertising campaigns that target one particular group by using an already targeted media source. The reality is that in some industries a targeted market is common and good business. In a heavy Hispanic area, a Hispanic radio station may be rated as number one, whereas, that same radio station is rated last in the rural community twenty miles to the east. The HUD regulations do not suggest that an agent should not utilize these targeted media outlets. It does require that agent these outlets as part of a campaign and not as a selective marketing tool.

For Example: Using the scenario from above, If John sells homes in both the rural town of Smallville and the next-door and heavily Hispanic town of Mediumville, his advertising must be consistent and not steer potential buyers. John cannot only place an ad on the Hispanic Radio station after listing a home in Mediumville and in contrast only place an ad on the *Morning Farm Show* when he list a home is rural Smallville. This advertising would limit the exposure of the homes to John's intended audience and reinforce the current racial patterns.

It is important to note, the HUD does not intend to deter the real estate professional from using niche or technical adverting outlets to promote unique properties or services. For example, if agent Jane is selling a working dairy farm with 200 milk cows, Jane is likely to limit her adverting to farming or dairy industry magazines. In this example, Jane has limited and focused her audience by profession and not a protected class.

In contrast, the open and intentional targeting of a protected class may be necessary to comply with a required affirmative action campaign. Under the respective federal laws and regulations for hiring, employment, or integration and diversity goals; employment or housing campaigns may intentionally focus the efforts toward attracting a particular minority. As employers, a broker may be asked or even expected to follow different guidelines for the placement of his/her advertising for new agents than for his/her traditional advertisements. The complexity of this issue requires the use of a skilled professional or attorney. Affirmative Action issues cannot be addressed in detail and the use of qualified profession is suggested for those who face these situations.

Acceptable References and Preference Given to Minority Groups

Senior Complex: The HUD allows for the limited use of housing and subsequent advertising that limits housing to those 55+. Given the complexity of these rules, please use the HUD guidelines and consult with a qualified broker when working with these properties.

Handicap Access: Although it would be a clear violation to state that a home is not intended or welcoming of wheel chairs or handicapped prospects, the HUD does not want to imply that a home with improvements or features that such as handicap access, special bathroom facilities, or ramps should not be featured as valuable improvements. These improvement may only be of value to a select few, but the inclusion of these in an advertisement is not considered discriminatory.

Roommates… Gender Restrictions: The HUD makes a clear exception to its policies when a person is advertising for shared living space. The key is to remember that the exception requires **SHARED** living space. This exception allows for the requirement that an applicant be a specific gender. This exception allows only for exclusion of one gender, not for any particular race or familial status

SWF SEEKS SAME FOR ROOMMATE. 2 BED – 2 BATH

$500 A MONTH + ½ UTILITIES

This ad would be in violation because the add states a clear preference for white and single.

EQUAL HOUSING
OPPORTUNITY

Equal Housing Opportunity Symbol

HUD regulations require that all advertisements for sale, rental, or financing of Real Estate should contain and Equal Housing Opportunity or EHO symbol. This symbol represents the professions goal and responsibility to promote equality and fairness in the housing market. The exact rules and specifics of what, where, and how big the symbol should be can be found in the HUD regulations-Section D. Here are some basic guidelines.

1. The logo is to be included in all advertisements… Print, Radio, and TV. Obviously, a radio advertisement would include the slogan vs. the symbol. Whereas, a TV advertisement could use the slogan or a prominent logo during the TV spot, and print media should use the slogan or symbol according the size rules in Section D.

2. The logo or slogan should be a visible and prominent part of the advertisement of equal font size of other parts of the ad, and if other logos are used such as MLS, Realtor “R”, the EHO symbol should be of the same size.

Broker and Firm obligations under the Law…

1. All advertisements by the firm or by affiliates should be screened for discriminatory content or questionable or misleading content.

2. Create firm policy, preferable in a written manual that creates an atmosphere of equality and awareness of fair housing issues.

3. Promote, encourage, and police completion of training requirements and training goals

4. HUD specifically requires that your firm's nondiscrimination policy be distributed to each employee and client..

1st Each employee will be given a printed policy manual

2nd Your firm will post its manual or statement of policy in a visible and open location where clients will be made aware and are able to examine further.

3rd It is suggested that all clients be given a written policy statement when entering into a listing or buyer agency agreement with your firm.

Let's Review your Firm's Fair Housing Policy Manual

Each firm is asked to maintain a Fair Housing Policy Manual, and this manual gives the firm an opportunity to work through advertising guidelines, detail training requirements and goals. Answer those sticky "What-Ifs" in advance and be prepared for the inevitable problems that will arise. This manual will also help the firm limit its liability by requiring the broker and agents to work through theses issues and make all those involved aware of the rules and the firm's policies. Finally for some firms who want to expand the content, this manual can act as a roadmap for how to deal with agents who refuse to comply with Fair Housing regulations.

1. Does your firm have a commitment to equal professional service to each and every person who walks through your doors? If we go one step father, do you have a written policy and training for how to deal with first time customers or new leads?

2. Is floor duty assigned evenly? Are new phone contacts screened and then assigned at the discretion of the receptionist, or are all calls assigned with a predetermined policy or order? Are minority agents given minority client leads at a higher rate than non-minority agents? Are these questions covered in your firm's policy manual?

3. How often is the firm's Fair Housing Policy Manual reviewed? It is solely at the discretion of broker or owner? Is the review a group process? Is agent participation allowed?

4. Does your policy have guidelines for when an agent should involve the firm's broker or seek legal counsel? Does the firm have a welcoming atmosphere for asking Fair Housing related questions? Is your firm's broker available enough to supervise the firm's advertisement submissions? Are these tasks delegated to another agent in the firm?

5. Who has the override authority in your firm if an advertisement is found to be in violation? Is it only the broker, other agents, or office staff?

6. If an agent is having problems and has submitted or using advertising that is in violation of Fair Housing guidelines. Does you firm have a corrective/punitive policy for how to deal with such problems? Does your firm have a termination policy?

7. How often are the FHA and HUD laws and regulations reviewed for changes? Whose responsibility is it to stay on top of these changes?

8. Do customers, clients, and agents have access to decision makers if they have concerns or have been victim of some sort of discrimination? Does your policy statement have contact information?

9. Does your firm use qualification questions when working with first time leads? Are these questions standardized? Are they used all the time, or only with perceived income levels? Does your firm have training on the use of qualification questions?

10. When asked to search for homes without being given a price range, does you firm use an objective equation to determine an acceptable range (such as payment not more than 25% of net monthly income) or is this a subjective call.

11. Are records kept to show which properties were shown? The search criteria that was used? The specific search requests made by the client?

12. Are all incoming calls answered with a standardized response to common questions? Is there training on how to answer incoming calls?

13. Does your firm have a goal of hiring and employing a diverse workforce?

Fair Housing Case Studies

Case #1 P.R. Hall vs. L------ Realty April 9th 2002

Realtor P.R. Hall was awarded $100,000 by a court in Alabama after claiming to be a subject of her employer's discrimination, L------- Realty. Realtor Hall, a black woman, claimed that her broker and firm acted with intent to steer her black clients and limited her access to new leads from white clients. She alleges that her broker intended to use her to service the communities black clients and use his white staff to service his white clients.

"This verdict signals to real estate agents that they are protected by Fair housing Laws just as much as their clients"

" Real Estate Agents play a large role in perpetuating real estate segregation"

Leslie Proll ***NAACP***

First, what do think of Mrs. Proll's comment that Real Estate Agents play a large role in perpetuating real estate segregation? Do you agree? Explain

What specifically has Realtor Hall accused her employer of ?

What specifically did L------ Realty's broker do wrong?

What can a firm do to prevent this type of discrimination from happening to its agents?

What are four policy ideas that could be used by your firm to equally distribute leads among the agents?

1.

2.

3.

4.

Case #2 Answering Racially Biased Questions

This case involves a rental specialist in Florida who was contracted to lease a property for her clients. Realtor X showed the house to a qualified black couple who was showing real interest in the property. After the showing, Realtor X was contacted by the clients who asked how the showing went. The Realtor was eager to tell them that she had a very good prospect and expected a signed lease within days. The clients then asked if the prospects were black, the Realtor informed them that they were. The client gave the Realtor strict instructions to not allow the lease to go forward. Realtor X contacted the potential renters and informed them that the property was no longer available. Realtor X then informed her broker about the incident, the broker immediately terminated his agency relationship with the clients.

The HUD's administrative law judge found the property owners to be in violation and ordered them to pay $70,000 in damages to the complainant and a $10,000 civil penalty. The judge also found that by answering an inappropriate question as to the couple's race, the Realtor facilitated the discrimination. The Realtor was fined $100. The broker was not punished or fined in any way because he immediately terminated the agency relationship.

What is the lesson to be learned from this case?

What did the Broker do right?

Case #3: No kids Allowed

HUD Formal Charge: In March 2008, Cheryl Lee Brill and Wally Wetherbee, a Realtor and Administrator for Re/Max, advertised for rent on Craigslist a house owned by respondent Velna Marti Irrevocable Income Trust. The ad stated, "This is an immaculate spacious three bedroom house for rent…NO cats, dogs, or children please." Two families with children responded to the advertisement. When they mentioned they had kids, Wetherbee refused to show them the property, saying the owner would not rent to people with kids. The house was later rented to three men without children.

How is this a Fair Housing Violation?

When your client asks you to discriminate, what do you say?

If your client refuses to accept Fair Housing rules, what do you do?

Case #4: Sexual Harassment by a Realtor

On January 29th 2009, the United States Department of Justice filed a Fair Housing suit against two Michigan real estate professionals for sexual harassment. The complaint detailed a history of sexual harassment against female tenants by an agent. This complaint alleges unwanted sexual advances, entering into the unit of female tenants without permission, granted housing benefits differently based on gender. The complaint has also placed liability upon the broker/owner for lack of supervision and or corrective measures. It is alleged that the broker knew of the misconduct and failed to act.

How is sexual harassment covered by the HUD's Fair Housing Policy?

What should be in every firm's employee policy guidelines involving allegations of sexual harassment?

What can a broker do to limit his/her potential liability from claims like this one?

Case #5: Deviation from Industry or Firm Norm

Sometimes discrimination by a real estate professional can be very subtle and hard to detect. One such example is the “double standard”. When a Realtor has an establish practice, and deviates from this standard for minorities, discrimination has occurred.

This case involves a home sale in late 2000 on the eastern shore of Long Island. The Realtor, a long time professional, entered into contract with a black man to sell one of his client’s homes. The potential buyer was somewhat surprised by the Realtor’s request for a very high earnest money deposit, and demand for financing proof within 5 days. The potential buyer complied, but began to research the area norms and even the Realtor’s normal earnest money request. A pattern of racial discrimination soon appeared.

How is this a Fair Housing Violation?

What is the best Strategy to combat such a discrimination claim?

Do you have to request the same amount of Earnest money every time?

Americans with Disabilities Act

The Americans with disabilities act prohibits discrimination on the basis of disability and in the areas employment, by State and local government, or in public accommodations, commercial facilities, transportation, and telecommunications.

What is a disability?

An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, or a person who is perceived by others as having an impairment. The ADA does not specifically name all of the impairments that are covered. It is first important to note that the disability can be solely in the mind of the person who is engaging in some form of discrimination. This may at first seem to be counter-intuitive, but discrimination upon one individual by another is not determinant upon the victim's actual impairment. Secondly, the ADA is not in the business of listing or judging actual disabilities. The standard is set for zero tolerance for actual or perceived discrimination. There is not a website that lists all the accepted disabilities.

In 2008 congress made several changes to the ADA guidelines and provided more clarity on several issues. First, a major life activity is said to be…

- Caring for Oneself
- Performing Manual Tasks
- Seeing
- Hearing
- Eating
- Sleeping
- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working

The determination of whether or not an impairment substantially limits a major life activity must be made without regard to the corrective effects of medical aids, medicine, assistive technology, and reasonable technology. For example, a person who has lost his or her leg and is able to walk and work with a prosthetic leg, this individual is still considered to be disabled. Secondly, a man or woman who is required to take an antidepressant or some other kind of mental aid drug is considered to be disabled if the use of this drug allows them to work when they could not work without the drug.

- An exception to this rule is corrective eyewear, a person who is able to wear glasses and correct their vision problems will no longer be considered disabled.

Example of Recognized Disabilities

- Blindness
- Deafness
- Paralysis
- Muscular Dystrophy
- HIV Infected
- Mental Retardation
- Emotional Illness

Reasons that are not acceptable for an ADA discrimination claim

- Homosexuality or Bisexuality
- Transvestitism or Transsexualism
- Pedophilia
- Exhibitionism
- Voyeurism
- Sexual Behavior Disorder
- Compulsive Gambling
- Kleptomania
- Pyromania
- Psychiatric problems cause by illegal drug use

Who must follow ADA Guidelines?

1. Employers with more than 15 employees

2. All State and Local Governments

3. Most private businesses that provide accommodations, goods, or services to the public

4. Public Services and Transportation.

ADA Title I: Employment

Title I requires employers with 15 or more employees to provide qualified individuals with disabilities an equal opportunity to benefit from the same opportunities available to others. This ensures the workplace takes advantage of the skills and abilities that the disabled persons have to offer, while protecting the disabled.

It is important to note that the act requires employers to give QUALIFIED disabled workers and equal chance at employment. This idea of qualified will be addressed as we talk about hiring standards and essential job functions.

This act requires employers not use discrimination is hiring practices by establishing non discriminatory hiring practices and by the use of "reasonable accommodations" for a disabled workers.

Title I complaints must be filed within 180 day from the date of discrimination. These complaints are filed with the EEOC, the Equal Employment and Opportunity Commission. If the complainant wishes to enter into a private lawsuit against the employer, the individual must receive a "right to sue" from the EEOC before filing suit.

Non-Discriminatory Hiring Standards

1st Establish "Essential Functions" of the listed job opening

This can be a required educational level

This can be a required number of years work experience

This could be a required Industry certifications… such as a C.P.A.

This can be a physical requirement… The ability to lift 50 lbs

2nd Ensure that these "Essential Functions" are actually job related and business necessity. The courts have often ruled that job requirements that are not bona fide necessities have often been used as acts of discrimination against both disabled and other protected classes.

One example of note is a case where a job opening required a college degree to be a safety inspector in a factory. All the necessary training was provided and paid for by the plant after the new employee was hired. The courts ruled that this requirement was not a bona fide requirement, but was rather an attempt to limit the number of minority applicants in the applicant pool in an area where whites had a higher percentage of college degrees.

3rd Determine if "*Reasonable Accommodation*" would allow the disabled person to meet these standards.

-Making facilities accessible

-Providing adaptive hardware

- Hiring readers and interpreters

- Providing part-time or modified work schedules

These adaptations are not expected to create an undue financial or logistical burden upon the business or employer. This issue of "undue" hardship is subjective and left to the courts and legal counsel.

Title II: State and Local Governments

Title II does not just cover employment practices by the state and local governments, but rather covers all activities of these governments regardless of size or receipt of federal funding.

Title II requires that state and local governments give those people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. This can be public education, employment, transportation, recreation, health care, social services, courts, and voting procedures.

In addition, these state and local governments must follow specific construction guidelines for any new construction or significant alternation of existing structures. These guideline help provide facilities that are conducive to a handicap or disabled workforce. These guidelines do not require state or government buildings to be torn down or remodeled if they are not in compliance nor do they consider routine maintenance to be an alteration, but rather create a proven plan for building styles and aids for future construction. Although not required to remodel a noncompliant structures, whenever possible, a government function that is housed in a noncompliant structure that can be moved without unreasonable hardship is expected to be moved to a compliant structure.

In addition to governmental entities, public transportation falls under the domain of Title II. As with new government building construction, any new vehicle or equipment purchases, or newly acquired leased vehicle or equipment must meet specific guidelines for ADA compliance. Older or grandfathered in equipment is subject to the same “reasonable accommodation” standard for adaptation to help address the needs of disabled persons.

Complaints against state and local governments, public transportation entities are filed with the United States Department of Justice.

Title III: Public Accommodations

Title III covers both businesses and not-for-profits. Public accommodations are private businesses that own, lease, or operate businesses such as restaurants, retail stores, hotels, movie theaters, private schools, or doctor’s offices.

These businesses must comply with the same basic principles found in both fair housing and ADA guidelines against discrimination or exclusion of any of the seven protected classes. In addition, these businesses must meet construction rules for new construction similar to Title II, but often not as strict, to be ADA compliant. As with title II, when a business’s facilities are not in compliance or form barrier or problem for a disabled person or worker, if correction of this problem does not create an undue hardship, removal or adaption is expected.

Examples of ADA adaption or new construction standards include:

1. Halls, doors, and bathrooms should be wide enough for wheelchairs

2. Grab bars in toilet and bathing areas

3. Light switches, alarm panels, and thermostats at an appropriate height.

4. Larger retail stores or business may be asked to installed automated door openers

In the real estate profession or for those of us who operate or represent landlords, this can often mean the construction of a wheel chair ramp, installation of bathroom grip bars, or various other adaptations. This does not mean tearing down a two story home and rebuilding a single level home.

Title III is enforced by actions brought by both the United States Department of Justice and by lawsuits from private individuals.

Antitrust Legislation…

How to get fired in

3 easy steps

It may seem unusual to cover antitrust violations in a Fair Housing course, but in reality these Federal laws are often intertwined and violation of one set of laws can often lead to violation in the others. At their core, both Fair Housing and Antitrust law are tasked with protecting the public by allowing the equality of choices in the real estate market. Whether it is steering a minority to a certain area of town or by firms segmenting markets, the end result is a market where individuals have had their choices limited by a real estate professional.

The federal ***Sherman Antitrust Act*** and ***Clayton Antitrust Act*** both prohibit monopolies, business combinations, and conspiracies that unreasonably restrain trade. The purpose of this legislation is to ensure that competition between firms will drive innovation and ensure multiple choices for the consumers. These choices will in turn keep prices at a fair and sustainable level. The purpose of this legislation is NOT to keep prices low. The Antitrust laws do not take profits or business policies into account, these laws only regulate the way competitors interact.

A **monopoly** is the presence of a single firm that has unchecked control over an industry leaving the consumer without a reasonable option of getting the goods or services needed from another source. This lack of competition allows the monopoly to disregard consumer wants and needs and operate solely to their benefit.

In reality, the creation of a monopoly in the real estate market is unlikely. The ease in establishing a firm and the number of agents make competition in the market likely and at times very extreme. This extreme competition leads some agents down a very dangerous road. In an attempt to secure a niche market or avoid excessive negotiation to acquire listings, some agents try to carve out their own little market or band together with other realtors and build a "firm" wall and establish a "set" commission rate.

This banding together between competing firms is known as collusion, and it is illegal. First, it must be emphasized that this is collusion between independent firms or agents of competing firms. An individual firm's own agents can work together and develop a business plan that limits what homes it is willing to market. It can set a policy for commission rate structures, a firm can decide not to use commission rates… You may not agree with their decision, but each firm operates independently. On the eighth day, the Lord did not create 6% commissions as a holy truth. The market sets the individual rates for service, service type, or general location.

Price Fixing…

Illegal price fixing occurs when brokers conspire to set prices for the services they perform. This can be commission rates or management fees. This prevents those prices from being set by competition in an open market.

Allocation of Customers or Markets…

This is an illegal agreement between competing brokers to not compete with each other by segmenting the market into customers for one or the other. This can be by price, geographic area, type of service, or any other agreement that limits the customer's choice of firms.

Group Boycotting…

This type of antitrust violation by firms or individual agents is by far the most common and has plagued the Tennessee real estate industry in recent years. Group boycotting is an organized or mandated policy to withhold cooperation with a competing firm on some basis; this could be a dispute over pricing or commission payment structure. The creation of many new types of real estate firms in recent years has created tension among the traditional firms and the new styles of firms that may offer discount services, flat fee services, or MLS listing alone for a fee. The temptation is very real and present to ignore and not show homes from firms that may not pay you as high of a cooperating commission. When this temptation turns into an unwritten company or group policy, an antitrust violation has occurred.

A serious lack of education and training on this subject has led to open discrimination of non-traditional firms. You must be vigilant to ensure your fiduciary duties as an agent are not compromised and your client is shown every possible home within their criteria range. The client's home selection must not be limited by industry politics and inter-industry squabbling.

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

Fair Housing

Equal Opportunity for All

Please visit our website: www.hud.gov/fairhousing

The Fair Housing Act

The Fair Housing Act prohibits discrimination in housing because of:

- Race or color
- National origin
- Religion
- Gender
- Familial status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18)
- Disability

What Housing Is Covered?

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker and housing operated by organizations and private clubs that limit occupancy to members.

What Is Prohibited?

In the Sale and Rental of Housing: No one may take any of the following actions based on race, color, religion, gender, disability, familial status, or national origin:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental
- For profit, persuade, or try to persuade homeowners to sell or rent dwellings by suggesting that people of a particular race, etc. have moved, or are about to move into the neighborhood (blockbusting) or
- Deny any person access to, or membership or participation in, any organization, facility or service (such as a multiple listing service) related to the sale or rental of dwellings, or discriminate against any person in the terms or conditions of such access, membership or participation.

In Mortgage Lending: No one may take any of the following actions based on race, color, religion, gender, disability, familial status, or national origin:

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

In Addition, it is a violation of the Fair Housing Act to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Make, print, or publish any statement, in connection with the sale or rental of a dwelling, that indicates a preference, limitation, or discrimination based on race, color, religion, gender, disability, familial status, or national origin. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.
- Refuse to provide homeowners insurance coverage for a dwelling because of the race, color, religion, gender, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- Discriminate in the terms or conditions of homeowners insurance coverage because of the race, color, religion, gender, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- Refuse to provide homeowners insurance, or imposing less favorable terms or conditions of coverage because of the predominant race, color, religion, gender, disability, familial status or national origin of the residents of the neighborhood in which a dwelling is located ("redlining")
- Refuse to provide available information on the full range of homeowners insurance coverage options available because of the race, etc. of the owner and/or occupants of a dwelling
- Make, print, or publish any statement, in connection with the provision of homeowners insurance coverage, that indicates a preference, limitation or discrimination based on race, color, religion, gender, disability, familial status or national origin.

Additional Protection If You Have a Disability

If you or someone associated with you:

- Have a physical or mental disability (including hearing, mobility and visual impairments, cancer, chronic mental illness, AIDS, AIDS Related Complex, or mental retardation) that substantially limits one or more major life activities
- Have a record of such a disability or
- Are regarded as having such a disability, your landlord may not:

  - Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to fully use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)
  - Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing on an equal basis with nondisabled persons.

Example: A building with a "no pets" policy must allow a visually impaired tenant to keep a guide dog.

Example: An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment.

However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

Accessibility Requirements for New Multifamily Buildings: In buildings with four or more units that were first occupied **after** March 13, 1991, and that have an elevator:

- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
  - An accessible route into and through the unit
  - Accessible light switches, electrical outlets, thermostats and other environmental controls
  - Reinforced bathroom walls to allow later installation of grab bars and
  - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and was first occupied after March 13, 1991, these standards apply to ground floor units only.

These accessibility requirements for new multifamily buildings do not replace more stringent accessibility standards required under State or local law.

Housing Opportunities for Families with Children

The Fair Housing Act makes it unlawful to discriminate against a person whose household includes one or more children who are under 18 years of age (*"familial status"*). Familial status protection covers households in which one or more minor children live with:

- A parent;
- A person who has legal custody (including guardianship) of a minor child or children; or
- The designee of a parent or legal custodian, with the written permission of the parent or legal custodian.

Familial status protection also extends to pregnant women and any person in the process of securing legal custody of a minor child (including adoptive or foster parents).

Additional familial status protections:

You also may be covered under the familial status provisions of the Fair Housing Act if you experience retaliation, or suffer a financial loss (employment, housing, or realtor's commission) because:

- You sold or rented, or offered to sell or rent a dwelling to a family with minor children; or
- You negotiated, or attempted to negotiate the sale or rental of a dwelling to a family with minor children.

The "Housing for Older Persons" Exemption:

The Fair Housing Act specifically exempts some senior housing facilities and communities from liability for *familial status* discrimination. Exempt senior housing facilities or communities can lawfully refuse to sell or rent dwellings to families with minor children, or may impose different terms and conditions of residency. In order to qualify for the "housing for older persons" exemption, a facility or community must prove that its housing is:

- Provided under any State or Federal program that HUD has determined to be specifically designed and operated to assist *elderly persons* (as defined in the State or Federal program); or

- Intended for, and solely occupied by persons *62 years of age or older*, or
- Intended and operated for occupancy by persons *55 years of age or older*.

In order to qualify for the "**55 or older**" housing exemption, a facility or community must satisfy each of the following requirements:

- at least *80 percent* of the occupied units must have at least one occupant who is 55 years of age or older; and
- the facility or community must publish and adhere to policies and procedures that demonstrate the *intent* to operate as "55 or older" housing; and
- the facility or community must comply with HUD's regulatory requirements for *age verification* of residents by reliable surveys and affidavits.

The *"housing for older persons"* exemption does not protect senior housing facilities or communities from liability for housing discrimination based on *race, color, religion, gender, disability, or national origin*. Further, *"55 or older"* housing facilities or communities that do permit residency by families with minor children cannot lawfully *segregate* such families in a particular section, building, or portion of a building.

If You Think Your Rights Have Been Violated

HUD is ready to help with any problem of housing discrimination. If you think your rights have been violated, you may write a letter or telephone the HUD office nearest you. You have one year after the discrimination allegedly occurred or ended to file a complaint with HUD, but you should file it as soon as possible.

What to Tell HUD:

- Your name and address
- The name and address of the person your complaint is against (the respondent)
- The address or other identification of the housing involved
- A short description of the alleged violation (the event that caused you to believe your rights were violated)
- The date(s) of the alleged violation.

If after contacting the local office nearest you, you still have questions - you may contact HUD further at:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 7th Street, S.W, Room 5204
Washington, DC 20410-2000
Telephone 1-800-669-9777
Fax (202) 708-1425 * TTY 1-800-927-9275

If You Are Disabled: HUD also provides:

- A TTY phone for the deaf/hard of hearing users (see above list for the nearest HUD office)
- Interpreters
- Tapes and braille materials
- Assistance in reading and completing forms

What Happens When You File A Complaint?

HUD will notify you in writing when your complaint is accepted for filing under the Fair Housing Act. HUD also will:

- Notify the alleged violator ("respondent") of the filing of your complaint, and allow the respondent time to submit a written answer to the complaint.
- Investigate your complaint, and determine whether or not there is reasonable cause to believe that the respondent violated the Fair Housing Act.
- Notify you and the respondent if HUD cannot complete its investigation within 100 days of filing your complaint, and provide reasons for the delay.

Fair Housing Act Conciliation: During the complaint investigation, HUD is required to offer you and the respondent the opportunity to voluntarily resolve your complaint with a HUD Conciliation Agreement. A HUD Conciliation Agreement provides individual relief for you, and protects the public interest by deterring future discrimination by the respondent. Once you and the respondent sign a HUD Conciliation Agreement, and HUD approves the Agreement, HUD will cease investigating your complaint. If you believe that the respondent has violated ("breached") your Conciliation Agreement, you should promptly notify the HUD Office that investigated your complaint. If HUD determines that there is reasonable cause to believe that the respondent violated the Agreement, HUD will ask the U.S. Department of Justice to file suit against the respondent in Federal District Court to enforce the terms of the Agreement.

Complaint Referrals to State or Local Public Fair Housing Agencies: If HUD has certified that your State or local public fair housing agency enforces a civil rights law or ordinance that provides rights, remedies and protections that are *"substantially equivalent"* to the Fair Housing Act, HUD must promptly refer your complaint to that agency for investigation, and must promptly notify you of the referral. The State or local agency will investigate your complaint under the *"substantially equivalent"* State or local civil rights law or ordinance. The State or local public fair housing agency must start investigating your complaint within 30 days of HUD's referral, or HUD may retrieve ("reactivate") the complaint for investigation under the Fair Housing Act.

Does the U.S. Department of Justice Play a Role?

If you need immediate help to stop or prevent a severe problem caused by a Fair Housing Act violation, HUD may be able to assist you as soon as you file a complaint. HUD may authorize the U.S. Department of Justice to file a Motion in Federal District Court for a 10-day Temporary Restraining Order (TRO) against the respondent, followed by a Preliminary Injunction pending the outcome of HUD's investigation. A Federal Judge may grant a TRO or a Preliminary Injunction against a respondent in cases where:

- Irreparable (irreversible) harm or injury to housing rights is likely to occur without HUD's intervention, and
- There is substantial evidence that the respondent has violated the Fair Housing Act.

Example: An owner agrees to sell a house, but, after discovering that the buyers are black, pulls the house off the market, then promptly lists it for sale again. The buyers file a discrimination complaint with HUD. HUD may authorize the U.S. Department of Justice to seek an injunction in Federal District Court to prevent the owner from selling the house to anyone else until HUD investigates the complaint.

What Happens After A Complaint Investigation?

Determination of Reasonable Cause, Charge of Discrimination, and Election: When your complaint investigation is complete, HUD will prepare a Final Investigative Report summarizing the evidence gathered during the investigation. If HUD determines that there is reasonable cause to believe that the respondent(s) discriminated against you, HUD will issue a Determination of Reasonable Cause and a Charge of Discrimination against the respondent(s). You and the respondent(s) have Twenty (20) days after receiving notice of the Charge to decide ("elect") whether to have your case heard by a HUD Administrative Law Judge (ALJ) or to have a civil trial in Federal District Court.

HUD Administrative Law Judge Hearing: If neither you nor the respondent elects to have a Federal civil trial before the 20-day Election Period expires, HUD will promptly schedule a Hearing for your case before a HUD Administrative Law Judge. The ALJ Hearing will be conducted in the locality where the discrimination allegedly occurred. During the ALJ Hearing, you and the respondent(s) have the right to appear in person, to be represented by legal counsel, to present evidence, to cross-examine witnesses, and to request subpoenas in aid of discovery of evidence. HUD attorneys will represent you during the ALJ Hearing at no cost to you; however, you may also choose to intervene in the case and retain your own attorney. At the conclusion of the Hearing, the HUD ALJ will issue a Decision based on findings of fact and conclusions of law. If the HUD ALJ concludes that the respondent(s) violated the Fair Housing Act, the respondent(s) can be ordered to:

- Compensate you for actual damages.
- Provide permanent injunctive relief.
- Provide appropriate equitable relief (for example, make the housing available to you).
- Pay your reasonable attorney's fees.
- Pay a civil penalty to HUD to vindicate the public interest by discouraging future discriminatory housing practices. The maximum civil penalties are: **$16,000.00** for a first violation of the Act; **$37,500.00** if a previous violation has occurred within the preceding five-year period; and **$65,000.00** if two or more previous violations have occurred within the preceding seven-year period.

Civil Trial in Federal District Court: If either you or the respondent elects to have a Federal civil trial for your complaint, HUD must refer your case to the U.S. Department of Justice for enforcement. The U.S. Department of Justice will file a civil lawsuit on your behalf in the U.S. District Court in the circuit in which the discrimination allegedly occurred. You also may choose to intervene in the case and retain your own attorney. Either you or the respondent may request a jury trial, and you each have the right to appear in person, to be represented by legal counsel, to present evidence, to cross-examine witnesses, and to request subpoenas in aid of discovery of evidence. If the Federal Court decides in your favor, a Judge or jury may order the respondent(s) to:

- Compensate you for actual damages.
- Provide permanent injunctive relief.
- Provide appropriate equitable relief (for example, make the housing available to you).
- Pay your reasonable attorney's fees.
- Pay punitive damages to you.
- Pay a civil penalty to the U.S. Treasury to vindicate the public interest, in an amount not exceeding **$55,000.00** for a first violation of the Act and in an amount not exceeding **$110,000.00** for any subsequent violation of the Act.

Determination of No Reasonable Cause and Dismissal: If HUD finds that there is no reasonable cause to believe that the respondent(s) violated the Act, HUD will dismiss your complaint with a Determination of No Reasonable Cause. HUD will notify you and the respondent(s) of the dismissal by mail, and you may request a copy of the Final Investigative Report.

Reconsiderations of No Reasonable Cause Determinations: The Fair Housing Act provides no formal appeal process for complaints dismissed by HUD. However, if your complaint is dismissed with a Determination of No Reasonable Cause, you may submit a written request for a reconsideration review to: Director, FHEO Office of Enforcement, U.S. Department of Housing and Urban Development, 451-7th Street, SW, Room 5206, Washington, DC 20410-2000.

In Addition

You May File a Private Lawsuit: Even if HUD dismisses your complaint, the Fair Housing Act gives you the right to file a private civil lawsuit against the respondent(s) in Federal District Court. You must file your lawsuit within two (2) years of the most recent date of alleged discrimination. The time during which HUD was processing your complaint is not counted in the 2-year filing period. You must file your lawsuit at your own expense; however, if you cannot afford an attorney, the Court may appoint one for you.

Even if HUD is still processing your complaint, you may file a private civil lawsuit against the respondent, unless: (1) you have already signed a HUD Conciliation Agreement to resolve your HUD complaint; or (2) a HUD Administrative Law Judge has commenced an Administrative Hearing for your complaint.

Other Tools to Combat Housing Discrimination:

- If there is noncompliance with the order of an Administrative Law Judge, HUD may seek temporary relief, enforcement of the order or a restraining order in a United States Court of Appeals.
- The Attorney General may file a suit in Federal District Court if there is reasonable cause to believe a pattern or practice of housing discrimination is occurring.

For Further Information:

The purpose of this brochure is to summarize your right to fair housing. The Fair Housing Act and HUD's regulations contain more detail and technical information. If you need a copy of the law or regulations, contact the HUD Fair Housing Office nearest you. See the list of HUD Fair Housing Offices on pages 7-9.

Federal Fair Housing, ADA, and Antitrust Quiz… 50 Questions

1. The EHO logo requirements only apply to advertisements that are in printed media.

a. True
b. False

2. The choices made by an agent as to where to place an advertisement, also known as selective placement of media, can be construed as discriminatory.

a. True
b. False

3. Although price fixing is illegal, and agreement between to brokers to stay out of the other's town and leave all the business of that community's to the local broker is legal.

a. True
b. False

4. A company policy to only deal in homes over 400,000 dollars violates the allocation of customer provision of the antitrust laws.

a. True
b. False

5. Sexual Orientation is a protected class under the Fair Housing Laws.

a. True
b. False

6. _____________, also known as panic peddling, means inducing homeowners to sell by making representations of the entry of minorities into the area.

a. blockbusting
b. steering
c. redlining

7. _____________ is the channeling of home seekers to particular areas on the basis of a protected class.

a. blockbusting
b. steering
c. redlining

8. Refusing to make mortgage loans or issue insurance policies in specific areas without regard to the economic qualification of the applicant is known as…..?

a. blockbusting
b. steering
c. redlining

9. An advertising piece with the phrase…. "nice Christian home," could be construed as discriminatory.

A. True
B. False

10. A woman that is advertising that she is seeking a roommate to share her apartment can legally limit her potential applicants to only women?

A. True
B. False

11. A woman that is advertising that she is seeking a roommate to share her apartment can legally limit her potential applicants to only white women?

A. True
B. False

12. Under Fair Housing Laws, the complainant does not have to prove you are guilty, have knowledge or of your specific intent….They only need to prove the fact that discrimination occurred.

a. True
b. False

13. The Federal Fair housing laws must be followed no matter what; there are no exemptions or exceptions.

a. True
b. False

14. Dwelling units owned by religious groups can be restricted to religious membership…as long as the religious membership is not overtly discriminatory

a. True
b. False

15. Housing limited or intended for older people is exempt from the familial status classification if… it is occupied solely by people 62 and older or 80% of its units are occupied by at least one person over 55.

a. True
b. False

16. Antitrust laws prohibit monopolies and contracts, combinations, and conspiracies that unreasonably restrain trade

A. True
B. False

17. Price fixing is when brokers conspire together to set prices instead of letting the market set the value for a product or service.

A. True
B. False

18. Competition is when brokers conspire together to set prices instead of letting the market set the value for a product or service.

A. True
B. False

19. Are HIV/ Aids patients considered handicapped?

A. Yes
B. No

20. Are drug addicts considered handicapped?

A. Yes
B. No

21. Title VIII prohibits discrimination in housing based on race, color, religion, or national origin, with certain exceptions

A. True
B. False

22. A private club may limit rental or ownership to members as long as the lodgings are not operated commercially.

A. True
B. False

23. The ADA guarantees individuals with certain disabilities an equal opportunity in the areas of employment, public accommodations, and telecommunications

A. True
B. False

24. The Fair Housing Amendment Act of 1988 added familial Status and Handicap as protected classes.

A. True
B. False

25. The Fair Housing Amendment Act of 1988 added religion and race as protected classes.

A. True
B. False

26. The use of credit checks on all applicants without exception is allowed under Fair Housing guidelines

A. True
B. False

27. Individual agents cannot be held accountable to antitrust laws, only their brokers.

A. True
B. False

28.   National Origin is not a protected class

A. True
B. False

29. “Race” is a protected class, not “color”

A. True
B. False

30. “ Allocation of markets” involves the agreement between brokers to divide the market into geographic or economic divisions and refrain from competing with each other… this creates an environment that is not conducive to competition and keeps prices artificially high.

A. True
B. False

31. When discussing the use of selective media, HUD does not intend to deter the real estate professional from using niche or technical adverting outlets to promote unique properties or services.

A. True
B. False

32. Like the 1974 act, Ronald Reagan signed into law the Fair Housing Amendment Act of 1988 that created two addition protected classes. “Handicapped” and “familial status” are the final two protected classes.

A. True
B. False

33. Making a profit by inducing owners of housing to sell or rent because of the possible entry into the neighborhood of persons of a particular protected class is a Fair Housing violation known as redlining.

A. True
B. False

34. Making a profit by inducing owners of housing to sell or rent because of the possible entry into the neighborhood of persons of a particular protected class is a Fair Housing violation known as blockbusting.

A. True
B. False

35. **Section # 804** of the federal fair housing law states it is against the law to “make, print, or publish any notice, statement, or advertisement, with respect to the sale/ rental of a dwelling that includes any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or handicap.

A. True
B. False

36. Individual agents cannot be held accountable to Fair Housing violations, only their brokers.

A. True
B. False

37. If models are used in display adverting **campaigns,** the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and when appropriate, families with children. Models when used should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one group.

A. True
B. False

38. An advertising campaign is more than a single advertisement submission, but rather a pattern or repetitive advertising message.

A. True
B. False

39. Advertisements include flyers, brochures, billboards, mailings, radio, TV ads, newspapers and magazines, signs, business cards, and statements.

A. True
B. False

40. HUD regulations require that all advertisements for sale, rental, or financing of Real Estate should contain and Equal Housing Opportunity or EHO symbol.

A. True
B. False

41. Title I of Americans with Disability Act covers…

A. Employment
B. State and local Governments
C. Public Accommodations

42. Title II of Americans with Disability Act covers…

A. Employment
B. State and local Governments
C. Public Accommodations

43. Title III of Americans with Disability Act covers…

A. Employment
B. State and local Governments
C. Public Accommodations

44. How many employees does a business have before it is subject to the rules of the ADA?

A. 0
B. 1
C. 15
D. 50

45. If Smallville's local government does not receive any Federal funding, it is exempt from ADA guidelines.

A. True
B. False

46. Title II requires all new government building be built to ADA compliance standards.

A. True
B. False

47. Public Transportation is covered under Title I of the ADA guidelines
A. True
B. False

48. Title III does not apply to Real Estate Offices

A. True
B. False

49. An employer can list bona fide essential job requirements upon a position to as a strategy to prevent discriminatory hiring practices.

A. True
B. False

50. Title I complaints must be filed within 180 day from the date of discrimination. These complaints are filed with the EEOC, the Equal Employment and Opportunity Commission. If the complainant wishes to enter into a private lawsuit against the employer, the individual must receive a “right to sue” from the EEOC before filing suit.

A. True
B. False