

# Fair Housing Policy and Advisory

## Policy Statement

Each newspaper should adopt a policy statement. The statement should be approved by the highest ranking officer (usually the publisher) of the newspaper. A copy of the statement along with a cover letter from the publisher explaining the newspaper's commitment to adherence of the Fair Housing Act should be distributed to the newspaper's employees.

A sample policy statement follows:

### **FAIR HOUSING LAWS**

"The Federal Fair Housing Act prohibits discrimination in the sale, rental, leasing and financing of housing, as well as discriminatory advertising, on the basis of RACE, SEX, COLOR, RELIGION, NATIONAL ORIGIN, MENTAL or PHYSICAL HANDICAP, or FAMILIAL STATUS. (Our local jurisdictions also have specific applicable regulations).

"These laws cover any potential or actual sale, lease, rental, eviction, price, terms, privileges or any service in relation to the sale of or use of housing. They not only prohibit advertisements which clearly restrict access to housing based on the protected categories, but also prohibit advertisements which indicate a preference for or against a person based on a protected category. In particular circumstances, use of colloquialisms, symbols or directions to real estate for sale or rent may indicate a discriminatory preference.

"It is the intent and goal of this newspaper to have each advertiser who wishes to place a covered advertisement in the newspaper comply with the Fair Housing laws. Any advertisement which is perceived to contain language contrary to these laws will be rejected or changed to remove the offending reference. There may be situations where it is not clear whether particular language is objectionable. Such advertisements should be referred to a supervisor for consideration and determination. Under certain circumstances, advertisers may claim that because of the nature of the housing being advertised, they are not subject to the Fair Housing laws. Such claims are irrelevant for purposes of considering advertisements for publication in this newspaper. Every housing advertisement published in this newspaper is subject to the Fair Housing laws."

## **Applicability**

The Fair Housing Act of 1968 begins: "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States."

All subsequent provisions of the Act and its administrative rules are based on the premise that obtaining fair housing must be a choice free of practices or influences that would limit such choice because of race, color, religion, sex, national origin, handicap or familial status.

"Blockbusting" and "steering" are two discriminatory practices that are specifically mentioned in the Act. Blockbusting includes engaging in conduct which conveys the impression that a neighborhood is about to undergo certain changes and, thus, panic owners into selling their properties. Steering involves guiding an individual seeking housing toward or away from particular property for discriminatory reasons.

Suits can be brought against the persons who wrote and placed the ad, as well as against the persons who accepted the ad, the owner and management company of the property advertised, plus the newspaper management, publisher and owner.

The Fair Housing Act covers all "dwelling units" or single units of residence for a family of one or more persons. The definition includes condominiums, cooperative and mobile homes. A dwelling unit can be all or part of any building or structure that is occupied or intended as a residence by a person or family.

The only legal discriminatory housing transaction is one between private parties when there is no use of advertising, a real estate broker, an appraiser, or commercial financing. Use of any of these causes the Fair Housing Act provisions to be applicable. It is permissible to discriminate by sex for a roommate when living areas are shared.

## **Complaints**

Complaints pursuant to the Fair Housing Act may be filed by:

1. Individuals who believe they have been discriminated against
2. HUD and other local, state and federal agencies
3. Fair Housing organizations

Anyone who can show that they have been "injured" by a discriminatory housing practice can file civil charges. The Act has expanded the number of protected classes as well as strengthened provisions for relief for claimants and penalties against defendants. Injured parties have up to a year to file a claim with the Department of Housing and Urban Development (HUD).

Aggrieved person is anyone who claims to have been injured by a discriminatory housing practice or who believes that such an injury is likely to occur. Injured parties include individuals for whom housing was made unavailable because of discrimination; however, fair housing organizations can also sue, charging interference with their efforts to promote equal housing opportunity. Suits are sometimes brought by "testers," persons hired to check for discrimination by pretending to be bona fide renters or buyers.

Fines, damages and attorney fees may be awarded as the result of a successful conclusion of a complaint. Fines may begin at \$10,000 and increase to as much as \$50,000. Fines may be assessed against corporations, individuals and owners.

## **Liability**

Anyone who makes prints or publishes advertisements (or causes them to be made, printed or published) needs to be concerned about housing discrimination. This definition includes all advertising and media, i.e. broadcast, brochures, billboards, direct mail, flyers, newspapers, poster, shoppers, etc. This provision extends to prohibit the use of discriminatory words, phrases, photographs, illustrations, symbols or forms.

The Department of Housing and Urban Development, which investigates complaints, takes the position that newspapers face civil suits if they publish advertisements that encourage discrimination (or even indicate a preference) relative to protected classes.

You might wonder if the Fair Housing Act and regulations hinders free speech as espoused in the First Amendment of the U.S. Constitution. The answer is NO.

There is a distinction between free public speech and commercial speech. Advertisements are commercial speech and, thus, are subject to regulation.

Newspapers are not in the practice of accepting advertisements for anything illegal, such as prostitution, stolen property, or "street" illegal drugs. Because discrimination is against the law, newspapers cannot accept ads that discriminate.

In order for newspapers to comply with all of the Fair Housing Act and regulations, publishers of housing advertisements should do the following:

- provide a printed copy of their nondiscrimination policy to each employee and officer;
- post copies of the policy in conspicuous locations in their businesses;
- make copies available for advertising customers;
- include a Fair Housing notice at the beginning of the real estate advertising section;
- avoid referring to the kinds of people who might live in or buy a particular dwelling in advertisements.

## **Tips**

Describe the PROPERTY, not the seller, or the neighbors, or the landlord, or "appropriate buyers and tenants." Seemingly harmless words can get newspapers into trouble. It is important that words used in discriminatory contexts are avoided. Examples are: restricted, exclusive, private, integrated, traditional, board approval required. Some of these words, especially together or in certain local contexts, are used as "code" to create an atmosphere of discrimination.

Beware of code words that carry hidden or subtle discriminatory meanings.

When a word causes doubt, do without.

Furthermore, avoid symbols or logos that imply or suggest a preference based on one of the protected classes. Examples: crosses, the Star of David. By expressing a preference for one class of person, other classes are discriminated against. Such use might suggest to "outsiders" that they are not welcome in such a place.

The use of human models in advertising is scrutinized in the same way that words are, because it is possible to indicate a preference for certain types of individuals by using certain kinds of models. The exclusive use of one kind of model can be interpreted as indicating a "non-preference" for persons in a protected class who do not look like the model. It does not matter whether the models are real individuals appearing in photographs or drawings in artists' illustrations. When models are used in any series of housing advertisements, provide fair representation, over time, of the different kinds of people found in your market areas.

The common sense approach to Fair Housing advertising is to use language or artwork or photography that is inclusive, not exclusive.

There are exemptions under the Fair Housing Act:

- Reasonable restrictions on the maximum number of occupants in a dwelling unit may be made.
- Under certain circumstances, religious organizations and private clubs may limit the sale, rental or occupancy of housing owned or operated for other than commercial purposes.
- The Act does not apply to an owner of dwelling containing living quarters for no more than four families (if the owner lives in one of the units), not to an owner of single-family dwellings (if the owner has no more than three). Yet it does apply if these same owners use a real estate broker and/or if they use discriminatory advertising.

# FAIR HOUSING ADVERTISING WORD AND PHRASE LIST

Revised 05/15/06

*This word and phrase list is intended as a guideline to assist in complying with state and federal fair housing laws. It is not intended as a complete list of every word or phrase that could violate any local, state, or federal statutes.*

*This list is intended to educate and provide general guidance to the many businesses in the Miami Valley that create and publish real estate advertising. This list is not intended to provide legal advice. By its nature, a general list cannot cover particular persons' situations or questions. The list is intended to make you aware of and sensitive to the important legal obligations concerning discriminatory real estate advertising.*

*For additional information, contact the Miami Valley Fair Housing Center at (937) 223-6035.*

**BOLD — not acceptable**

*ITALIC — caution*

STANDARD — acceptable

**able-bodied**

*Active*

**adult community**

**adult living**

**adult park**

**adults only**

**African, no**

**Agile**

**AIDS, no**

**Alcoholics, no**

**Appalachian, no**

**American Indians, no**

**Asian**

Assistance animal(s)

Assistance animal(s) only

*Bachelor*

**Bachelor pad**

**Blacks, no**

**blind, no**

*board approval required*

*Catholic*

**Caucasian**

**Chicano, no**

**children, no**

**Chinese**

*Christian*

**Churches, near**

college students, no

**Colored**

**Congregation**

Convalescent home

Convenient to

**Couple**

**couples only**

Credit check required

**crippled, no**

*Curfew*

**Deaf, no**

Den

**disabled, no**

*domestics, quarters*

Drug users, no

Drugs, no

**employed, must be**

**empty nesters**

**English only**

Equal Housing Opportunity

**ethnic references**

*Exclusive*

*Executive*

**BOLD — not acceptable**

*ITALIC — caution*

STANDARD — acceptable

**families, no**  
families welcome  
family room  
family, great for  
*female roommate\*\**  
*female(s) only\*\**  
*55 and older community\**  
fixer-upper  
gated community  
*Gays, no*  
*Gender*  
**golden-agers only**  
golf course, near  
**group home(s) no**  
guest house  
handicap accessible  
**handicap parking, no**  
**Handicapped, not for**  
**healthy only**  
*Hindu*  
**Hispanic, no**  
**HIV, no**  
*housing for older persons/seniors\**  
**Hungarian, no**  
*Ideal for . . . (should not describe people)*  
**impaired, no**  
**Indian, no**  
**Integrated**  
**Irish, no**  
**Italian, no**  
*Jewish*  
kids welcome  
*Landmark reference*  
**Latino, no**  
*Lesbians, no*  
*male roommate\*\**  
**males(s) only\*\***  
*man (men) only\*\**  
*Mature*  
**mature complex**  
**mature couple**  
**mature individuals**  
**mature person(s)**  
membership available  
*Membership approval required*  
**Mentally handicapped, no**  
**Mentally ill, no**  
**Mexican, no**

**Mexican-American, no**  
**Migrant workers, no**  
*Mormon Temple*  
**Mosque**  
Mother in law apartment  
*Muslim*  
*Nanny's room*  
**Nationality**  
*Near*  
**Negro, no**  
Neighborhood name  
**Newlyweds**  
*Nice*  
*non- smokers*  
# of bedrooms  
**# of children**  
*# of persons*  
# of sleeping areas  
*Nursery*  
nursing home  
*Older person(s)*  
**one child**  
*one person*  
**Oriental, no**  
**Parish**  
*perfect for . . . (should not describe people)*  
pets limited to assistance animals  
*pets, no*  
**Philippine or Philipinos, no**  
**physically fit**  
**play area, no**  
**preferred community**  
*Prestigious*  
Privacy  
*Private*  
Private driveway  
Private entrance  
Private property  
Private setting  
Public transportation(near)  
**Puerto Rican, no**  
Quality construction  
*quality neighborhood*  
Quiet  
Quiet neighborhood  
references required  
**religious references**  
Responsible

**BOLD — not acceptable**

*ITALIC — caution*

STANDARD — acceptable

**Restricted**  
**retarded, no**  
*Retirees*  
*Retirement home*  
*safe neighborhood*  
*school name or school district*  
se habla espanol  
seasonal rates  
seasonal worker(s), no  
*Secluded*  
section 8 accepted/ welcome  
*section 8, no*  
*Secure*  
security provided  
*senior adult community\**  
*senior citizen(s)\**  
**senior discount**  
*senior housing\**  
*senior(s)\**  
*sex or gender\*\**  
**Shrine**  
single family home  
**single person**  
*single woman, man\*\**  
**singles only**  
*sixty-two and older community\**  
Smoker(s), no  
Smoking, no

*Snowbirds\**  
sober  
*Sophisticated*  
Spanish speaking  
**Spanish speaking, no**  
Square feet  
*Straight only*  
student(s)  
*Students, no*  
**Supplemental Security Income (SSI), no**  
**Synagogue, near**  
**temple, near**  
**tenant (description of)**  
Townhouse  
**traditional neighborhood**  
traditional style  
*tranquil setting*  
*two people*  
**Unemployed, no**  
Verifiable Income  
*walking distance of , within*  
**Wheelchairs, no**  
**White**  
**White(s) only**  
winter rental rates  
*winter/summer visitors\**  
*woman ( women) only\*\**

\* *Permitted to be used only when complex or development qualifies as housing for older persons*

\*\* *Permitted to be used only when describing shared living areas or dwelling units used exclusively as dormitory facilities by educational institutions.*

All cautionary words are unacceptable if utilized in a context that states an unlawful preference or limitation. Furthermore, all cautionary words are "red flags" to fair housing enforcement agencies. Use of these words will only serve to invite further investigation and/or testing.

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