

FAIR HOUSING ADVERTISING GUIDELINES

Introduction

The Ohio Association of REALTORS, the Ohio Newspaper Association and representatives from local and state agencies involved in housing issues have come together to create this brochure on fair housing advertising guidelines for Ohio.

Included are some words that have been identified as unacceptable for use in advertising of property for sale or lease.

This brochure is not intended to be used as a training tool but rather has been designed to serve as a supplement to other comprehensive guides to fair housing advertising. Because several exist that provide thorough coverage, representatives of the above organization felt Ohio housing providers and media are best served by this companion piece.

Anyone placing or accepting advertising on property for sale or lease is strongly encouraged to obtain a copy of one or more of the guides to fair housing advertising listed below. All have been reviewed by representatives of housing agencies and are listed here because of their complete treatment of the subject.

Fair Housing Advertising Fair Housing & Market Checklist Advertising Manual

c/o Vicki Kemper Franz c/o Oregon Newspaper
The Baltimore Sun Assoc.
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P.O. Box 1377 Suite 111
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Fair Housing Advertising

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The Newspaper Center
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Premise of Fair Housing Laws

The Federal 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 as amended and its corresponding administrative rules are based on the premise that obtaining fair housing must be a choice free of practices

or influences that would limit that choice because of race, color, religion, sex, national origin, familial status, handicap, ancestry, or military status.

Ohio Fair Housing law, in most cases, is consistent with federal law. In several instances, however, Ohio law actually extends beyond federal law, effectively filling in gaps or eliminating exceptions which may exist in the federal statutes. Significantly, Ohio law adds discrimination based upon age to the list of prohibited practices.

In addition to federal and state law, many Ohio municipalities have approved local fair housing regulations. Several, for example, prohibit housing discrimination based upon marital status, sexual orientation, etc.

Who May Bring a Charge?

Under Ohio Revised Code Section 4112.05(B), “any person may file a charge with the Ohio Civil Rights Commission (OCRC) alleging that another person has engaged or is engaging in unlawful discriminatory practices.” An aggrieved party has up to one year to file a claim with the Department of Housing and Urban Development (HUD) or the Ohio Civil Rights Commission. Fair Housing organizations can also bring charges asserting frustration of their mission to promote equal housing opportunity.

Who Needs to be Concerned About Fair Housing Advertising?

Under State and federal law, when it comes to discriminatory advertising, not only can administrative charges or civil suits be brought against the persons who wrote and placed the ad, but also against the person who accepted the ad, the owner and management company of the property advertised, plus the newspaper management, publisher and owner.

Penalties for Housing Discrimination

Housing discrimination can be expensive. When a housing discrimination claim is filed with HUD or the Ohio Civil Rights Commission, the respondent is given the opportunity to answer the charge and an investigation is conducted. Even those cases where the claim is not prosecuted involve the diversion of respondent’s time and resources. If the case proceeds to trial before an administrative law judge or Hearing Examiner, or to a state or federal judge, the respondent may be held liable for compensatory and

punitive damages and may be subject to injunctive relief. This means that one poorly written advertisement can be costly.

Words and Actions to Avoid

Seemingly harmless words can get in trouble. It’s important that words used in discriminatory contexts are avoided. See the accompanying word and phrase list for examples.

If you ran an ad that said “No SSI” (a not-so-subtle code for “Don’t look here if you are living off Social Security”), you would be vulnerable to a lawsuit, because that phrase discriminates against disabled persons and others who receive Social Security – in addition to retired persons. So does the phrase “active seniors”. “Active” implies someone who is not disabled.

Also, it’s wise to avoid symbols or logotypes that imply or suggest a preference based on one of the protected classes. Examples: crosses, the Star of David, the Christian fish symbol. The reason for avoiding symbols like these is simple: by expressing a preference for one class of person, other classes are discriminated against. Just by looking at the ad, “outsiders” could be expected to realize that they are not welcome in such a place.

The use of models in advertising is scrutinized the same way that words are, because it’s possible to indicate a preference for a certain type of person by using a certain kind of model. The exclusive use of one kind of model can be interpreted as indicating a “non-preference” for persons in a protected class who don’t look like the model. It doesn’t matter whether the models are real people appearing in photographs or are drawings in artists’ illustrations.

A good rule of thumb is to use language, artwork, and/or photography that is inclusive, not exclusive. Also, ad copy should be used to describe the property - not the seller, or the neighbors, or the landlord, or any “appropriate” buyers or tenants.

Word List

Any word can be discriminatory depending upon context and usage. Users of this list are cautioned that the examples set forth below are not exhaustive, but provide a topical guide to problem language, with illustrations. Words descriptive of race, color, sex, religion or creed, national origin, familial status, handicap, ancestry, or military status should never be used. Words similar to those listed below and/or suggestive of an intent to unlawfully exclude any person or group should be avoided. It is always best to err on the side of caution; “close calls” should be handled by management, in consultation with a private attorney. General questions may be directed to any of the agencies or entities listed on this brochure.

Avoid Words Descriptive of Sex	Examples “female”, “male”
Religion or Creed	References to Judaism/use of Star of David in ad; “near church”
Race	“African”, “Asian”
Color	“Black” or “White”
National Origin	“Hispanic”, “American”
Familial Status	“Adults Only”
Handicap	“Able-Bodied”, “Responsible/Stable”

In addition, other words or phrases to avoid include:
“Adults Only” “No Mentally Ill”
“Empty Nesters” “Employed”
“Newlyweds” “Unemployed”
“Alcoholics” “Active” “Fit”
“Non-drinkers” “Exclusive”
“Golden Agers” “No Play Area”
“No Students” “Mature Complex”
“No SSI”

DISCLAIMER

Caution

Determination of what constitutes discriminatory advertising is a subjective and evolving process. Ads deemed innocuous today might well be the subject of tomorrow’s litigation. While the government agencies, private individuals and entities involved in the creation of this brochure have agreed upon its content for public information purposes, this brochure is not intended to provide legal advice or opinions on any issue, to any entity.