

**Fair Housing -A REALTORS® Guide to Compliance**  
**The Protected Classes**

<b><u>FEDERAL</u></b>	<b><u>STATE</u></b>	<b><u>Chicago</u></b>	<b><u>Cook County</u></b>
Race	Race	Race	Race
Color	Color	Color	Color
Religion	Religion	Religion	Religion
National Origin	National Origin	National Origin	National Origin
Gender (sex)	Gender (sex)	Gender (sex)	Gender (sex)
Familial Status	Familial Status	Familial Status	Familial Status
Handicap	Handicap	Handicap	Handicap
	Ancestry	Ancestry	Ancestry
	Age	Age	Age
	Marital Status	Marital Status	Marital Status
	Military Discharge	Military Discharge	Military Discharge
		Parental Status	Parental Status
		Sexual Orientation	Sexual Orientation
		Lawful Source of Income	Lawful Source of Income
			Housing Status

## The Civil Rights Act of 1866

- a. Requires that “All citizens of the United States, shall have the same right, in every State and Territory, as is enjoyed by the white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.”
- b. In the case of Jones v. Mayer, decided on June 17, 1968, the U.S. Supreme Court held that the 1866 law prohibits “all racial discrimination, private as well as public, in the sale or rental of property.

## Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendments Act of 1988

- a. Together these are known as the Federal Fair Housing Law, Congress declared a national policy of fair housing throughout the U.S. The law, as amended, makes illegal any discrimination based on the protected classes.
- b. The law requires that all people be treated equally with no different terms, conditions or denial of equal housing opportunity based on the protected classes.

## The Code of Ethics

Article 10 of the NAR Code of Ethics requires that “Realtors® shall not be a party to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin.”

Realtors® pledge to conduct their business and activities in keeping with the spirit and letter of the Code of Ethics. Article 10 imposes obligations upon Realtors® but it is also a firm statement of position and philosophy on housing opportunity for all people.

## Less Favorable Treatment

1. Allegation that the agent made housing less available because of the home-seekers’ race, color, religion, sex, handicap, familial status or national origin.
  - a. Complaints that the minority seller or purchaser received less favorable treatment than did a non-minority seller or purchaser.
  - b. Complaints that the agent prevented the minority home seeker from obtaining housing in the community of their choice.
2. Behavior that can lend credence to a “less favorable” allegation includes:
  - a. Failing to serve the minority customer, insulting, ignoring or referring the customer to another agent of the same minority.
  - b. Failing or delaying the submission of the minority customer’s offer to the seller or inducing the seller to reject the offer in favor of one submitted by a non-minority for reasons of race.
  - c. Failing to use best efforts to conclude the transaction including, failing both to identify all alternative financing services and to make appointments to show the property.
  - d. Offering the property on less favorable terms to minority customers, including requiring a higher down payment, a later (or earlier) move-in date, or otherwise differentiating in the conditions of sale.

Complaints of “less favorable” treatment are easily made and can be difficult to disprove unless the sales agent has kept good records. Often good records can refute false charges or satisfactorily explain non-discriminatory reasons for the sales agent’s behavior.

## **Steering**

The complaint that a sales agent prevented minority home seekers from obtaining housing in the community of their choice is commonly known as steering.

Steering has been characterized by the Justice Department as:

- attraction: actions designed to attract minority buyers to minority or changing communities
- avoidance: actions designed to cause minority buyers to avoid non-integrated communities

Steering actions would include the following:

- Showing the minority customer only listings in minority or transitional neighborhoods and denying the existence of, or access to, listings in non-integrated areas.
- Downgrading, to minority buyers, the advantages and amenities of a non-integrated community and downgrading, to non-minority buyers, the desirability of an integrated neighborhood.
- Slanting the choices of listed property made available to minority home seekers so that the properties most suitable to them in terms of quality, price and needs appear to be available only in minority or changing neighborhoods when that is in fact not the case.

Complaints of “steering” like complaints of “less favorable treatment”, can also assume a subjective quality that makes them difficult to refute in the absence of documentation. Such documentation should include, as a minimum:

- evidence that the minority home seeker was offered the range of listings available to the agent
- such listings encompassed most, if not all, the areas served by the agent

Discrimination against white home seekers: complaint that a non-minority buyer was not shown listings in integrated neighborhoods or was discouraged from purchasing in such neighborhoods by direct or implied references to its racial, or ethnic character.

## **Panic-peddling**

Using the presence or proximity of minorities as a means of inducing non-minority residents of a neighborhood to sell their property. Also called “blockbusting”, charges of panic-peddling normally stem from two kinds of complaints:

1. That because minorities are or perceived to be moving into a neighborhood, sales agents encourage homeowners in that neighborhood to list their properties.
2. That sales agents have engaged in intensive telephone, mail or door-to-door canvasses for listings in changing neighborhoods or areas adjacent to minority or changing neighborhoods.

The agents must be concerned not only with the intent of their behavior but also the perception their comments and conduct will have. It is not necessary, for example, that sales agents referred to the proximity of minorities for their comments or conduct in soliciting listings to create the impression that they are panic-peddling.

## **Testers**

1. Testers are matched teams, a minority and a non-minority, who separately visit agents or offices posing as home seekers.
2. They request the same type of housing and matched in all relevant home seeker characteristics (such as income, down-payment, specifications), the object of the test is to determine whether their race influences the information or services offered by the agent or company.
3. Items such as number, price and location of listings offered, type and number of qualifying questions and quality of service offered are compared to determine whether substantial difference in treatment has occurred.
4. Testing has been used by both public and private civil rights enforcement agencies and has been recognized by the Supreme Court as a legitimate method of gathering evidence of alleged housing violations.

## **Providing Equal Professional Service**

The National Association of Realtors® has developed a checklist for developing office procedures that will ensure that all customers and clients receive equal professional service. Check to see if you are providing the same level of service to everyone.

1. Use systematic procedures
2. Obtain objective information
3. Let the customer or client set the limits
4. Offer a variety of choices

## **Discriminatory Housing Practices**

- Refusing to rent, lease or sell after the making of a bona fide offer, or to otherwise make unavailable or deny a dwelling to a person because of race, color, religion, sex, national origin or familial status or handicap.
- To discriminate in the terms, conditions, or privileges of the sale or rental of a dwelling, or discriminating in the provision of services or in the use of facilities.
- To make, print or publish any notice, statement, or advertisement that indicates a preference or limitation, or discrimination based on the protected classes.
- To misrepresent the availability of a dwelling.
- Blockbusting, or for profit attempting to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of members of a particular group.
- To discriminate in the provision of brokerage services.
- To refuse to permit a handicapped person to make reasonable modifications of existing premises if necessary to afford such person full enjoyment of the premises.
- A refusal to make reasonable accommodations in rules, policies, practices or services to afford a handicapped personal equal opportunity to use and enjoy a dwelling.

## Advertising Guidelines

The Fair Housing Act prohibits the making, printing or publishing of any statement, notice or advertisement in connection with the sale or rental of housing which expresses a preference, limitation, or discrimination based on any of the protected classes. This applies not only to real estate advertisements, but also to notices and statements in the MLS and any other statements, verbal or written, connected with the sale or rental of housing. The HUD guidelines on advertising state that HUD will examine wording used in ads to determine if, **in the context used**, discrimination is a likely result.

There is no wording which is always acceptable or always unacceptable under the Fair Housing Act. This list is meant as a guide; each ad should be examined to determine whether **in the context used** wording expresses an illegal preference, limitation or discrimination.

A general rule is to describe the property, not the tenant, purchaser, seller, owner, neighbor, etc. Wording which describes a person or group of persons, community or neighborhood is likely to express a discrimination if reference is made, either directly or indirectly, to the race, color, religion, sex, handicap, familial status, or national origin of that person, group, community or neighborhood. **The following words should not be used in reference to people:**

able-bodied	child, children	Jewish	physically fit
adult	couple	Latino	Polish
African	deaf	mature	Puerto Rican
agile	drinkers	responsible	empty nesters
alcoholics	employed, must be	mentally ill	retarded
Asian	mentally handicapped	Mexican-American	singles only
bachelor	(ethnic references)	(nationality)	single person
black	handicapped	not for newly weds	white
blind	healthy only	non-drinkers	
Catholic	Hispanic	(# of) children	
Caucasian	impaired	older person(s)	
Chicano	Indian	one child	
Chinese	Irish	one person	
crippled	integrated	Oriental	

**Words describing the physical characteristics or architectural features of a property generally are acceptable under the Fair Housing Act.**

As a general guide, **the following wording is usually acceptable** when describing architectural or physical features of a dwelling. Most locational descriptions are also permitted under the fair housing act, unless reference is made to a protected class. Be advised that HUD will examine wording in its context to determine if discrimination within the meaning of the Fair Housing Act is a likely result of the wording used. The following wording is usually acceptable when describing architectural or physical features of a dwelling:

Architectural Features

Location Descriptions

family room	play area	near...*
master bedroom	traditional style	<b>walking distance to...*</b>
English basement	<b>walk-in closet</b>	executive community
Japanese garden	executive home	family neighborhood
butler's pantry	den	(neighborhood name)
private driveway	great for family	(school district)*
private entrance	<b>view of/overlooks</b>	(school name)*
private property	<b>walk-out basement</b>	<b>desirable neighborhood</b>
<b># of bedrooms</b>	<b>in-law apartment/suite</b>	<b>rare find</b>
nursery	luxurious	<b>quiet street</b>
his & her baths	elegant	<b>Symbols such as: Santa</b>
cathedral ceiling	gated community	<b>Claus, Easter Bunny,</b>
Colonial	gatehouse/security	<b>St. Valentine Day, European style</b>
kitchen	French doors	<b>Merry Christmas</b>
(color) in reference to decoration i.e. white cabinets		<b>Happy New Year</b>

- When providing location information, reference should not be made to specific places of worship or other racially, ethnically, or religiously identifiable institutions or locations. References to schools, school districts, and country clubs may convey racial or ethnic information in some communities, and if so, should be avoided.

In a memorandum issued by HUD in January, 1995, the items in **bold print** above are considered to be acceptable in advertising as long as the context in which they are used is not discriminatory. They did not specifically okay the other words, however, taken in the right context they too should be acceptable.