### Fair Housing Marketing: Compliance and Beyond

**ALEXIA SMOKLER** 

NATIONAL ASSOCIATION OF REALTORS®







### Real Estate Ads Before the Fair Housing Act



16. RACIAL RESTRICTIONS. No property in said Addition shall at any time be sold, conveyed, rented or leased in whole or in part to any person or persons not of the White or Caucasian race. No person other than one of the White or Caucasian race shall be permitted to occupy any property in said Addition or portion thereof or building thereon except a domestic servant actually employed by a person of the White or Caucasian race where the latter is an occupant of such property.

A pamphlet advertising the Seattle Blue Ridge "restricted" neighborhood provides a list of "protective restrictions"

Courtesy: Seattle Civil Rights & Labor History Project





Every Tuesday and Thursday I would go and put the listings in the books. And I remember reading things like "no Jews allowed," "no Blacks allowed," "this covenant is here."

And I didn't even think about it. It was just the way things were."

Mary Rosinski, REALTOR®





### Fair Housing Act Section 804(c)

It shall be unlawful—

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



## The purpose of the Fair Housing Act's advertising provision is:

to prevent ads and listings suggesting that a homeseeker is not welcome because of a protected characteristic.



# The purpose of the Fair Housing Act's advertising provision is not:

to protect people from feeling offended.



### **How Courts Decide if an Ad Violates Fair Housing**

Would an "ordinary reader" find that this ad indicates a preference, limitation or discrimination?



### THE ORDINARY READER is ...

 "neither the most suspicious nor the most insensitive of our citizenry"

 A member of the protected class at issue



### **HUD GUIDANCE**

 1972: tackled discriminatory phrases and code words

1995: clarification

BOTH: CONTEXT MATTERS



# ALERT! THERE IS NO AUTHORITATIVE WORD AND PHRASE LIST

Be cautious when using any list that claims to be "HUD Approved"



## THE EVOLVING SENSIBILITIES OF THE "ORDINARY READER"

- Confederate Flag
- "Exclusive Neighborhood"
- "Master Bedroom"



## EVEN IF A PHRASE DOESN'T VIOLATE FAIR HOUSING LAW ...

Are there other reasons why you may not want it in your ad or listing?



### **SOME RULES OF THUMB**

#### DOES THE AD OR LISTING ...



describe the property?



imply that one group is preferred over another?



describe the ideal buyer?



contain symbols that that suggest discrimination?



describe or use code words suggesting the demographics of the neighborhood?



refer to racial, ethnic, or religious landmarks?



use welcoming language?



#### TIME TO PRACTICE!

Do the following phrases indicate a "preference, limitation, or discrimination" to the ordinary reader?

- "Ocean view"
  - "His and hers closets"
    - "Walk to synagogue"
      - "Excellent schools"



### THANK YOU.





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