

Fair Housing Marketing: Compliance and Beyond

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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?



describe the ideal buyer?



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



use welcoming language?



imply that one group is preferred over another?



contain symbols that suggest discrimination?



refer to racial, ethnic, or religious landmarks?

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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