



**FLORIDA PRESS ASSOCIATION
FAIR HOUSING ACT
ADVERTISING
GUIDE**

GUIDE PURPOSE AND DISCLAIMER

This guide was created as a training and reference guide to help FPA members and their advertising clients comply with federal and state housing laws and to avoid unintended acts of unlawful discrimination. The Florida Fair Housing Act and federal Fair Housing Act impact everyone involved in such advertising.

Each newspaper should establish and document ongoing staff training, and implement a policy to encourage and promote fairness in housing advertisement. Individuals have a right to find housing without facing discrimination. This guide was prepared to help newspapers and their advisers support that right.

This guide is not designed to replace legal advice or serve as a defense in the event of a charge of discrimination. Fair Housing is an area of law that is evolving and may change depending on changing interpretations. Local jurisdictions may have regulations or ordinances that may supersede some provisions of the guide.

Following the concepts discussed in this guide should serve anyone attempting to create an inclusive, nondiscriminatory advertisement. However, consult legal counsel for assistance in individual situations. FPA members are encouraged to use FPA's legal hotline at 877.NEWSLAW.

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INTRODUCTION AND OVERVIEW

Congress enacted the federal Fair Housing Act (FHA) in 1968 to create the general right to be free from discrimination in housing. In 1983, Florida passed the Florida Fair Housing Act (FFHA), bringing Florida law in substantial conformity with the federal version.

Both laws (hereinafter “the fair housing laws”) are comparable and state that it is illegal to discriminate in the sale, rental, or financing of housing or in the provision of brokerage and appraisal services because of race, color, religion, gender, disability, national origin, or familial status (families with children under the age of 18; pregnant women and people in the process of obtaining custody of children under 18, or persons with written permission of the parent or legal guardian)..

Regarding gender discrimination, in 2021, following an executive order from President Biden, HUD began enforcing the FFHA to prohibit discrimination based on sexual orientation and gender identity. This order, however, was rescinded by President Trump on Jan. 20, and HUD has halted enforcement actions, thereby effectively eliminating sexual orientation and identity as a protected class under the law. However, keep in mind that local jurisdictions may have such protections and these should be checked.

The fair housing laws directly affect renters or sellers of a dwelling, agents involved in the rental or sale of a dwelling, and advertising media carrying messages for the rental or sale of a dwelling.

Complaints may be filed by individuals who believe they have been discriminated against, United States Department of

Housing and Urban Development (HUD), state agencies, and local fair housing organizations.

Newspaper clients should understand that federal and state law requires newspapers to enforce the provisions of the fair housing laws. The language in the fair housing laws relevant to newspapers provides that it is 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, or an intention to make any such preference, limitation or discrimination.” Note that advertising published in jurisdictions having more restrictive requirements should also comply with local criteria. For example, as noted, some local and county governments have added sexual orientation to the list of protected classifications.

COVERAGE OF THE FAIR HOUSING LAWS

The fair housing laws prohibit discrimination in the sale or rental of a dwelling. A “dwelling” is broadly defined as any building, structure, or part of a building or structure, that is occupied as, or intended for occupancy as, a residency by one or more families. A dwelling also includes any vacant land that is offered for sale or lease for the construction or location of a building or structure.

EXEMPTIONS

There are certain exemptions to the fair housing laws. Described briefly, those exemptions are as follows:

- Housing for Older Persons. This exemption includes:

Housing provided under any state or federal program that HUD determines is specifically designed and operated to assist elderly persons.

Houses intended for and solely occupied by people aged 62 or older.

Housing intended for occupancy solely by at least one person aged 55 or older. Certain qualifications must be met for this exemption to apply. For example, facilities and services must be designed to meet the needs of older persons, and at least 80 percent of the occupied units must have at least one person aged 55 or older.

- Private clubs may give preference to their members.
- Religious organizations may limit sales or rentals, for other than a commercial purpose, to persons of the same religion.
- Individuals owning no more than three single family homes and selling or renting a home without the use of a real estate broker or discriminatory advertising. This exemption applies to only one sale per 24-month period.
- The rental of rooms in a property occupied by no more than four families, one of whom must be the owner of the property.

DISCRIMINATORY ADVERTISEMENTS

Commercial advertisements for homes or apartments may not indicate a preference for renters or homeowners of a certain race, color,

religion, gender, disability, national origin, or familial status.

WHAT IS PROHIBITED?

PREFERENTIAL OR EXCLUSIONARY WORDS, PHRASES & SYMBOLS

According to HUD, using certain words, phrases and symbols may indicate a discriminatory preference or limitation by conveying that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status or national origin.

Words phrases and symbols used in residential real estate advertising that convey an overt or subtle discriminatory preference or limitation should be avoided. Descriptions should refer to the property and not the neighbors, property manager or residents.

Words indicative of **familial status** should be avoided, including but not limited to:

- | | |
|--------------------|------------------------|
| • Adults | • Adult Living |
| • Singles | • Empty Nesters |
| • Newlyweds | • One Child |
| • Children | • Mature Person |

Words indicative of **race, color, national origin or religion** should be avoided, including, but not limited to:

- | | |
|---------------------------|-----------------------|
| • African-American | • Chinese |
| • Black | • Latino |
| • Oriental | • Puerto Rican |
| • Caucasian | • Polish |
| • American Indian | • Irish |
| • White | • Chicano |
| • Black | • Hispanic |
| • Colored | • Indian |
| • Mexican American | • Protestant |
| | • Catholic |
| | • Christian |
| | • Jew |

- **Philippine**
- **Hungarian**
- **Italian**
- **African**

Words indicative of **gender** should be avoided, except where sharing living areas is involved, or where a dwelling is used exclusively for dormitory facilities by education institutions.

Words indicative of **disability** should be avoided, including, but not limited to:

- | | |
|----------------------------|------------------------------|
| • Able-bodied | • Mentally ill |
| • Crippled | • Impaired |
| • Deaf | • Healthy only |
| • Mentally Retarded | • Social security, no |
| • Handicapped | • Physically fit |

“Catch” words are code words in certain communities that homes are not for or cannot be afforded by particular people. Such words used in a discriminatory context should be avoided, such as:

- | | |
|------------------------------|-------------------------|
| • Restricted | • Exclusive |
| • Private | • Integrated |
| • Traditional | • Board approval |
| • Membership approval | |

Any **regional words or phrases** which imply or suggest a preference for a certain race, color, gender, religion, disability, national origin or familial status should be avoided.

The following is a list of words and phrases to avoid, but it is not an exhaustive list:

QUESTIONABLE

Ideal for healthy persons

Apartment ideal for single persons

NEUTRAL

Jogging trails with great view

Small quiet home

Adult apartment complex

Neighborhood for professionals

Take beltway to Mormon Temple

Near synagogue

Ideal for physically fit

Walking distance to subway

Single family homes

Luxurious apartments

Go north on beltway to Michigan Street

Near places of worship

All units accessible for disabled

Convenient to subway

ADVERTISEMENTS CONTAINING DIRECTIONS TO REAL ESTATE FOR SALE OR RENT

Directions or references to a real estate location made in terms of significant racially or religiously identifiable landmarks may indicate a discriminatory preference or limitation. For example, identifying a parish, church or synagogue in directions to the property may intentionally or unintentionally exclude members of certain races or religions.

Advertising that references facilities which cater to a particular racial, ethnic or religious group, or a specific gender, such as a country club or private school, may indicate an illegal preference.

SELECTIVE USE OF ADVERTISING MEDIA OR CONTENT

According to HUD, selectively targeting advertisements to certain geographic areas or selectively distributing advertisements that

only reach one segment of the community's population may be discriminatory.

Discriminatory advertising may be avoided by uniformly placing advertisements in all geographic areas and segments of the community in which the particular dwelling is located.

Under certain circumstances, targeting home-seekers through strategic placement of advertisements may be permissible, especially where advertisers want to place advertising in selected editions or locations for economic reasons. But, an advertiser may not consider the protected status of the likely recipients in selecting an advertising venue. Fair housing laws also prohibit selective advertising where the selection of venue has the effect of discriminating based on the protected status of the recipients or non-recipients of the advertising.

The fair housing laws do not prohibit designing advertising to attract persons to properties who would not ordinarily be expected to apply, when such efforts are undertaken according to an affirmative marketing plan or undertaken to remedy the effects of prior discrimination in connection with advertising or marketing.

SELECTIVE USE OF HUMAN MODELS WHEN CONDUCTING AD CAMPAIGN

Human models in photographs, drawings or other graphic display may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status or national origin. Therefore, selectively using models of a particular race, national origin or gender, or displaying only adults in advertising campaigns may violate fair housing laws. Discriminatory advertising may also include the selective use of racially mixed models to advertise in one development and

not in others. Ads should be created to cover a broad range of people by using both male and female models, representatives from both majority and minority groups including the disabled, and when applicable, families with children.

SELECTIVE USE OF EQUAL OPPORTUNITY STATEMENT, SLOGAN OR LOGOTYPE

While most of this guide focuses on classified advertising, the fair housing laws apply to display advertising for rental and real estate property.

All advertising of residential real estate for sale, rent or financing should contain an equal housing opportunity logotype, statement or slogan as a means of educating prospective buyers or tenants that the property is available to all persons regardless of race, color, religion, sex, disability, familial status, or national origin. The slogan, statement or logo should not be used selectively in advertisements that reach some geographic areas while not using the slogan or logotype in other areas may be a discriminatory practice.

HUD suggests the use of certain logotypes, statements and slogans.

Equal Housing Opportunity Logotype:



The logo should be used in ads of four column inches or more and should be clearly visible and legible.

The federal regulations suggest the size of the logo be 2" x 2" for a ½ page or larger display ad, 1"x 1" on 1/8 page to ½ page ad, and ½" x ½" if ad is 4 column inches to 1/8 page.

Sample Equal Housing Opportunity Statement:

“We are pledged to the letter and spirit of U.S. Policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.”

Sample Equal Housing Opportunity Slogan:

“Equal Housing Opportunity”

FAIR HOUSING POLICIES

HUD will consider a publisher's implementation of the fair housing policies and practices provided in HUD's Advertising Guidelines as evidence of compliance with the FHA.

HUD suggests including at the beginning of each real estate section a notice of compliance with the Fair Housing Act. The following are illustrations of a publisher's notice:

“All real estate advertised herein is subject to the Federal Fair Housing Act, which makes it illegal to advertise any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, or national origin or intention to make any such preference, limitation, or discrimination.”

“We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis.”

HUD regulations also state that any media organization used to disseminate housing advertising should do the following:

- Develop a nondiscriminatory advertising policy;
- Provide a printed copy of such policy to each employee and officer;
- Post such policy in a conspicuous place;
- Provide copies of such policy to everyone who advertises.

ENFORCEMENT AND PENALTIES

A person who believes he or she has been injured or will be injured by a discriminatory advertisement has up to one year to file a complaint against the publisher.

The fair housing laws are enforced by the processing of complaints filed by individuals, local housing groups, the director or deputy director of HUD or the Florida Commission on Human Relations. After the complaint is filed, the pertinent agency investigates the complaint. If the advertisement was published in a local jurisdiction with substantial equivalent laws or procedures, HUD and the Commission will refer the complaint to the local agency and take no further action. The local agency will try to correct the alleged discriminatory practice by informal methods of conference or conciliation.

In addition to the administrative complaint process, private individuals may file a private civil action.

As a remedy for discriminatory behavior under the federal FHA, an administrative tribunal may award actual damages, which include damages for emotional distress, attorney's fees, costs and injunctive or equitable relief. In addition the administrative tribunal may assess a civil penalty of up to

\$10,000 for the first finding of a discriminatory house practice, \$25,000 for the second violation during the preceding five years, and \$50,000 where the respondent has committed two or more violations during the preceding seven years. In Florida, circuit courts may also impose such penalties as well as costs and attorneys fees.

ADVERTISER CHECKLIST

YES NO

- | | | | |
|--------------------------|--------------------------|-----|--|
| ☐ | ☐ | 1. | Are your ads free of words, phrases, symbols or visual aids which indicate or convey any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin? |
| ☐ | ☐ | 2. | Are the directions used in the ads free of reference to any landmarks or an area, which could imply an unlawful discriminatory preference? |
| ☐ | ☐ | 3. | If the ad contains discounts or promotions, have you eliminated unlawful discriminatory preference? |
| ☐ | ☐ | 4. | Are logos used in the ads (e.g. complex, management company) free of unlawful discriminatory preference? Are Equal Housing logos used properly? |
| ☐ | ☐ | 5. | Do the ads use models and model graphics in a non-discriminatory way? (for one-shot advertising such as a brochure or billboard, look at the brochure or billboard alone; otherwise look at the overall advertising campaign.) |
| ☐ | ☐ | (a) | Are both sexes adequately represented? |
| ☐ | ☐ | (b) | Are children adequately represented? (does not apply if housing is exempt from familial portions of the Fair Housing act as "housing for older persons.") |
| ☐ | ☐ | (c) | Are minority populations represented in reasonable proportion to their population in the metropolitan area (not the housing itself or the suburban area)? |
| ☐ | ☐ | (d) | Are the model and model graphics clearly definable as representing minority and majority populations, and are the minorities being used in equal social settings? |
| ☐ | ☐ | (e) | Are models or model graphics of children and minorities being used for all and not just some properties advertised? |
| ☐ | ☐ | 6. | If the ad is printed, has the publisher printed the "Publisher's Notice" at |

the beginning of the real estate advertising section?

- | | | | |
|--------------------------|--------------------------|-----|--|
| ☐ | ☐ | 7. | Is an equal housing opportunity logo, statement or slogan, as appropriate, being used in connection with the advertising? |
| ☐ | ☐ | 8. | Are displays or announcements being used properly at all sales offices? |
| ☐ | ☐ | 9. | If appropriate to the metropolitan area, are you placing ads in non-English language media? |
| ☐ | ☐ | 10. | Is the distribution of your advertising campaign (including brochures, fliers, billboards, mailings, radio ads, newspaper ads and publication ads) reaching the protected classes? |

If your answer to each of these questions is "Yes," then your advertising probably complies with the Fair Housing Act. However, this list is suggestive only and is not intended to serve as a substitute for obtaining your own legal advice on compliance with the Florida or federal Fair Housing Act.

FAIR HOUSING ACT SAMPLE ADVERTISING POLICY

Your newspaper should adopt and implement this sample policy or one substantially like it as part of your compliance requirements. Copies on your letterhead should be distributed to all staff members, posted with other government notices in your office, and be available to the public.

POLICY

Fair Housing Laws

The Florida Fair Housing Act and the federal Fair Housing Act prohibit 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. (Local jurisdictions may also have specific additional regulations.)

These laws cover any potential or actual sale, lease, rental, eviction, price, terms, privileges or any service in relation to the sale or use of housing. They not only prohibit advertisements that clearly restrict access to housing based on the protected categories, but also prohibit advertisements that 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 that 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 certain 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 Florida Fair Housing Act and the federal Fair Housing Act.

Publisher

Date

FAIR HOUSING ACT SAMPLE CORRECTION LETTER

Send this letter along with a copy of the policy statement and Fair Housing Act Advertising Guide to an advertiser if you discover, after the fact, that you have published an advertisement that contains a violation of Florida Fair Housing Act and federal Fair Housing Act regulations.

Produce on your newspaper's letterhead

Dear Advertiser:

Recently you ran an advertisement (copy enclosed or attached) in our newspaper which may have violated provisions of the Florida Fair Housing Act and federal Fair Housing Act advertising regulations enforced by the Florida Commission on Human Relations and the United States Department of Housing and Urban Development.

Our newspaper has pledged to uphold both the spirit and letter of the fair housing laws. I've attached a copy of our policy statement.

I'm sure you also wish to comply with the law to avoid the possibility of fines that could reach \$10,000.00 or more in the first instance. I'm enclosing our Fair Housing Act Advertising Guide that summarizes the law.

I'd be happy to answer any questions you have or to provide further information. We value you as a customer and hope you continue to advertise in our newspaper.

Sincerely,

Publisher

FAIR HOUSING ACT SENIOR HOUSING EXCEPTION ADVERTISING FORM

Form to be filed at the newspaper by owners/operators of housing claimed to be exempt by meeting requirements for housing for older persons.

We certify that we have met the necessary requirements(s) for exemption for housing for older persons for the listed complex (es) in accordance with the Florida and federal Fair Housing Acts. We understand that the statutes specifically state this housing be (circle those which apply to your property; to be exempt, property must meet one of these criteria):

1. Intended for and 100% occupied by persons 62 years of age or older; or
2. Intended and operated for occupancy by at least one person 55 years of age or older where at least 80% of the units are occupied by at least one such person and where there is the existence of "significant facilities and services specifically designed to meet the physical and social needs for older persons."

Name of Property: _____

Address of Property: _____

City: _____ State: _____ Zip Code: _____

Signed: _____

Print Name Here: _____

Signer's Address: _____

City: _____ State: _____ Zip Code: _____

Signer's Phone: _____

Legal owner(s) of the property are: _____

Name and address of owner(s) or chief executive officer, if using corporate name:

Address: _____

City: _____ State: _____ Zip Code: _____

FAIR HOUSING ACT REFERENCE CARD

This page is designed to help guide individuals editing copy for housing advertisements to avoid violating the Florida and federal Fair Housing Acts. This is not intended as a substitute for legal advice nor to provide a defense in the event of a charge of discrimination arising from a specific incident. However, the language set forth should assist anyone in creating an inclusive, nondiscriminatory advertisement.

QUESTIONABLE OR PROHIBITED

No children
Walking distance to subway
Ideal community for active & physically fit
Neighborhood for professionals
Not handicap accessible

Prefer bright healthy persons to apply

Take Beltway to Mormon Temple
No alcoholics
No persons infected with AIDS need apply
Adults only

Great apartment for singles
St. Michael's parish
Near churches
Private and exclusive community
Children allowed on first floor only
Perfect for empty-nesters
For persons capable of living independently
Perfect starter home for newlyweds
Perfect for single female
Great home in Polish neighborhood
Interracial neighborhood
Surround yourself with Christian neighbors
No pets
Family sections available
English speakers only
Mature persons
Mother-in-law apartment
No SSI
Non-smokers only
Handyman's dream
No unemployed
No seasonal workers

PREFERRED

Bring your kids
Convenient to subway
Persons with disabilities given priority
Luxurious apartments
Apts. with wheelchair ramp on first floor
Housing for persons with no mental disabilities
Go north on Beltway to Oak Street
No drinking
Inclusive housing
Elderly person for apartment in retirement community
Enjoy tennis court, pool, golf course
Downtown area
Near places of worship
Quiet, wooded setting
Play area
Single family homes
Accessible
Small home with lots of charm
Great apartment
Centrally located
All welcome
Large community
Service animals only
Families welcome
All welcome
All ages welcome
Extra apartment
Verifiable income
No smoking
Fixer-upper
Credit check required
Domestic quarters

While not intended as a substitute for legal advice, the language set forth should assist anyone in creating an inclusive, nondiscriminatory advertisement.

***If you have questions concerning the Fair Housing Act,
the following contact can assist you:***

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