

Does Your Advertising Meet Fair Housing Standards?

Title VIII of the Civil Rights Act of 1968 makes it illegal to discriminate in any type of housing based upon race, color, religion, sex, national origin, disability or familial status, the so-called “protected classes.”

However, advertisements held in violation are not always that black-and-white. Advertising that a community is “perfect for mature professionals” might also be deemed to be in violation.

And while most understand how that law applies to people walking into a rental office or sales center, it also applies to advertising.

The Fair Housing Act specifically provides that it is illegal to advertise for the rental or sale of any housing in a way that might indicate discrimination against a protected class.

For instance, an advertisement which states “No Children” would be an example of an advertisement that violates the familial status prohibitions in the Fair Housing Act.



These principles apply to all advertising. So whether it’s traditional advertising (like television, radio or newspapers, or non traditional advertising (like on-line bulletin board services), ads must comply with Fair Housing standards.

BEST ADVERTISING PRACTICES

- 1) Advertise the virtues of the property itself instead of the types of tenants desired.
- 2) include the Fair Housing logo in all advertising, including listings with on-line services, such as Craig’s List.

Advertising “to attract” protected classes

The Fair Housing Act prohibits ads that show discrimination against protected classes. There is nothing in the law that prohibits advertising to attract protected classes as residents.

Thus, an advertisement stating the property has a “family playground” or a “handicapped accessible clubhouse” is perfectly acceptable under the Fair Housing Act.

Below is an excerpt from HUD's Guidance regarding advertisements under the Fair Housing Act. While it is old (January 5, 1995) it is the most relevant pronouncement by HUD on the topic and still linked on their website

The following is policy guidance on certain advertising issues which have arisen recently. We are currently reviewing past guidance from this office and from the Office of General Counsel and will update our guidance as appropriate.

1. **Race, color, national origin.** Real estate advertisements should state no discriminatory preference or limitation on account of race, color, or national origin. Use of words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms (i.e., white family home, no Irish) will create liability under this section. However, advertisements which are facially neutral will not create liability. Thus, complaints over use of phrases such as master bedroom, rare find, or desirable neighborhood should not be filed.
2. **Religion.** Advertisements should not contain an explicit preference, limitation or discrimination on account of religion (i.e., no Jews, Christian home). Advertisements which use the legal name of an entity which contains a religious reference (for example, Roselawn Catholic Home), or those which contain a religious symbol, (such as a cross), standing alone, may indicate a religious preference. However, if such an advertisement includes a disclaimer (such as the statement "This Home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status") it will not violate the Act. Advertisements containing descriptions of properties (apartment complex with chapel), or services (kosher meals available) do not on their face state a preference for persons likely to make use of those facilities, and are not violations of the Act. The use of secularized terms or symbols relating to religious holidays such as Santa Claus, Easter Bunny or St. Valentine's Day images, or phrases such as "Merry Christmas", "Happy Easter", or the like does not constitute a violation of the Act.
3. **Sex.** Advertisements for single family dwellings or separate units in a multi-family dwelling should contain no explicit preference, limitation or discrimination based on sex. Use of the term master bedroom does not constitute a violation of either the sex 4 discrimination provisions or the race discrimination provisions. Terms such as "mother-in-law suite" and "bachelor apartment" are commonly used as physical descriptions of housing units and do not violate the Act.
4. **Handicap.** Real estate advertisements should not contain explicit exclusions, limitations, or other indications of discrimination based on handicap (i.e., no wheelchairs). Advertisements containing descriptions of properties (great view, fourth-floor walk-up, walk-in closets), services or facilities (jogging trails), or neighborhoods (walk to bus-stop) do not violate the Act. Advertisements describing the conduct required of residents ("non-smoking", "sober") do not violate the Act. Advertisements containing descriptions of accessibility features are lawful (wheelchair ramp).
5. **Familial status.** Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles. Advertisements describing the properties (two bedroom, cozy, family room), services and facilities (no bicycles allowed) or neighborhoods (quiet streets) are not facially discriminatory and do not violate the Act.