

Discrimination Hurts: Fair Housing Rules

By Judith I. Johannsen

Fairness in housing is not just a snappy little catch phrase a prospective real estate professional learns in licensing classes, it's a reality and it's the law. Simply stated, fairness in housing means that all Americans have equal access to housing. The Fair Housing Act Amendments of 1988 strengthened the government's commitment to fair housing and made significant changes in how real estate professionals must conduct business in order to provide equal access to housing and to protect themselves against a charge of, or the appearance of, discrimination. Furthermore, the amendments provided HUD the authority to prosecute legitimate cases on behalf of an injured party.

Real estate agents can probably recite from memory, in their sleep, backwards and forwards, the classifications it is illegal to discriminate against: race, creed, color, national origin, ancestry, sex, marital status, age, sexual orientation, lawful source of income, familial status, learning disability, mental retardation, mental disability or physical disability. One would think that with all the training, review and reiteration, there would be no need to remind anyone that discriminatory housing practices are prohibited. Plainly, simply and unequivocally, discrimination is illegal. However, and unfortunately, instances of alleged violations of the fair housing laws are routinely reported. Even though a prospective buyer/tenant may have an accent, may hail from a different part of the world, may have a different color of skin or may proclaim himself a religious zealot, he may not be dismissed as a potential buyer/tenant. That buyer/tenant's money is as green as anyone else's. In the final analysis, all an agent really needs to be concerned with is whether or not the buyer/tenant has the necessary funds available to consummate the transaction. No one is magically relieved from the mandates of law disallowing inappropriate and/or illegal questions, statements or screening, no matter what.

While discriminatory practices in housing are clear and unmistakable violations of the fair housing rules, there are exceptions to the rules. For example, there are instances in which a landlord/owner may avoid the general mandate of the fair housing laws and reject a prospective tenant. As such exemptions belong to the owner, it is not for the real estate professional to determine who may or may not fall within the exceptions. The Realtor®'s duty remains constant – to show available property to interested and qualified prospects. Any questions an owner may have regarding possible exceptions to the rules being applicable to its circumstances should be discussed with an attorney.

At times, Realtors® are confronted with a landlord who flatly refuses to accept a prospective tenant who is eligible to receive Section 8 rental assistance (Section 8 is a federally funded program to provide housing opportunities for qualified individuals). As Section 8 funding is a lawful source of income and, therefore, a landlord, pursuant to the fair housing laws, may not discriminate against such a tenant solely on the Section 8 factor. Again, the prudent landlord/owner would discuss such a situation with counsel.

Any Realtor® asked to take a listing by a landlord who is unwilling to adhere to Connecticut's fair housing laws should decline that listing. Furthermore, any Realtor® who facilitates a landlord in discriminating, in any manner, risks both its Realtor® membership and its real estate license.

On a personal level, discrimination in any manner is hugely offensive; legally, it's prohibited – it's that simple – discrimination in housing is a clear violation of the law. This is not an understatement or an oversimplification. When a person first studies to obtain a real estate license, the fair housing material is thoroughly covered. Learning it and practicing it are two sides to the same coin. Knowing who and what is protected under the fair housing laws is key. Understanding and practicing in accordance with the fair housing laws is right, it is the law, and it is good for business. Engaging in discriminatory housing practices exposes a Realtor® to possible loss of license, civil penalties, actual damages, punitive damages and the fouling of one's reputation. Being discriminated against is infuriating and demeaning. Discrimination hurts.

The Connecticut Fair Housing laws were designed and implemented to protect the public by ensuring equal professional service by Realtors® to everyone. If one believes he has experienced discriminatory and unfair treatment on the part of a seller/landlord in the attempt to buy or rent a home, contact the Commission on Human Rights and Opportunities ("CHRO") at (860) 566-3350 to lodge a complaint; if one believes he has experienced discrimination on the part of a Realtor®, contact the Realtor®'s specific local Board of Realtors®.

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