



Fair Housing Training Kit Outline and Instructions

Documents included in kit:

Equal Opportunity Brochure

NAR Fair Housing Quiz with Answers

Discussion Case Hannah v Sibcy Cline REALTORS®

Summary of Key Fair Housing Laws

Sales Agent/Broker Fair Housing Guide

Instructions:

1. Make copies of the following documents for all meeting attendees.
 - NAR Fair Housing Quiz (do not make copies of the answers)
 - Discussion Case
 - Summary of Key Fair Housing Laws
 - Sales Agent/Broker Fair Housing GuideAdditional copies of the Equal Opportunity Brochure can be downloaded from the MAR web site www.mirealtors.com or contact the MAR office at 800-454-7842.

2. Who should attend?
 - All sales associates, assistants and staff (receptionist, administrative staff) who have contact with clients or prospective clients should attend the training session.

3. Running the meeting.
 - A. Give an overview of the current environment
 - Over the past two years, the National Fair Housing Alliance (NFHA) has conducted extensive testing of real estate companies located throughout the United States. NFHA's testing reveals a surprising high level of steering and other illegal behavior in 12 metropolitan cities, including Detroit. Earlier this year, NFHA filed with the Department of Housing and Urban Development the first of what will be several complaints against real estate firms around the nation. In late July, the NFHA announced the filing of a discrimination complaint against a franchise in the Detroit region. This complaint results from testing conducted in the City of Detroit as well as its surround suburbs. In response, the MAR and many member firms are holding fair housing education sessions similar to this one we are having today. MAR has also provided to us its strategy to break down barriers of home ownership.

 - B. Give an overview of company policy for reporting and handling fair housing complaints and questions.
 - In most firms, the salesperson is asked to discuss a situation with the broker/manager so that appropriate action can be taken immediately. Review your office policy with your salespersons so that they understand the commitment to fair housing.

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- C. Use the NAR quiz as a discussion tool
 - Go over each question with the salespersons, as you provide the answers, it is helpful to provide the background included in the Fair Housing Center materials.
- D. Hold a question and answer session
- E. Present Hannah v Sibcy Cline REALTORS® as a discussion case
 - The lesson from this case is a simple one. REALTORS® should not respond to racially based inquiries or requests even if the intent behind the inquiry or request does not seem malicious. The risk that the information will be used for discriminatory purposes is simply too great. REALTORS® should remember that discrimination based on intentional consideration of race is illegal, even where the REALTOR® is not motivated by racial prejudice.
- F. Summary and Conclusion
 - Discrimination still occurs and lawsuits or complaints are still plentiful. These types of trials are very costly and time consuming. Understanding who is covered by the laws, and what activities are required or prohibited by the laws will help avoid problems. You should use your knowledge of civil rights laws to avoid problems for you, our office and for your clients. Our goal is to reduce the potential violation of civil rights laws by anyone in this office or any of our clients.
- G. Thank everyone for attending and remind them to review the brochure on occasion as a refresher course.



NAR Fair Housing Quiz

Think you're pretty well versed in federal fair housing law? Answer these 12 questions to see whether you're ready to tout your fair housing know-how to your clients and customers.

1. Under federal fair housing laws, it is legal to prohibit which of the following in a housing unit?

- a. Smoking
- b. A live-in caregiver for a resident with a disability
- c. Drinking alcohol
- d. Both a and c

2. Which of the following are violations or potential violations of the Fair Housing Act?

- a. A seller tells you he doesn't want to sell to African-Americans
- b. A sales associate puts the phrase "adults only" in an MLS listing
- c. Both a and b
- d. None of the above

3. Under the federal fair housing law, the seven protected classes include

- a. Race, color, source of income, handicap, national origin, marital status, religion
- b. Race, color, religion, sex, handicap, familial status, national origin
- c. Race, sexual orientation, sex, familial status, handicap, age, national origin
- d. None of the above

4. The federal fair housing laws prohibit all of the following, except

- a. Refusal to show, sell, or rent a property because of disability
- b. Expressing a preference for young adults in a listing comment
- c. Evicting a current user of illegal drugs
- d. Marketing your listings exclusively in a religious publication

5. The Civil Rights Act of 1968 does which of the following?

- a. Grants all citizens the same rights as white citizens to own, purchase, lease, transfer or use real property
- b. Allows exemptions only for homes sold without the assistance of a real estate practitioner
- c. Effectively prohibits all discrimination in real estate based on race
- d. Both a and c

6. Based on federal fair housing law, which of the following people would be protected?

- a. A divorced female, single parent
- b. A 35-year-old single, Jewish man
- c. A 50-year-old white man
- d. All of the above

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7. The Equal Professional Service Model involves all of the following key guidelines except

- a. Have I offered a variety of choices?
- b. Is my client working with another agent?
- c. Has my customer set the limits?
- d. Do I have objective information?

8. When a prospect inquires about the racial makeup of neighborhoods or schools, you should respond by saying:

- a. "I believe the neighborhood has a few Hispanic families, I can check and get back to you."
- b. "The Fair Housing Act prohibits me from providing that kind of information. I recommend you contact the school district, municipal government, or the local library."
- c. "I wouldn't worry about that, the neighborhood is safe and the schools are good."
- d. "Residents in this neighborhood value diversity, you'll fit right in."

9. If a seller using a real estate agent refuses an offer because of the buyer's national origin, who may file a federal lawsuit against the seller?

- a. The prospective buyer
- b. The real estate practitioner
- c. The federal government
- d. All of the above

10. Looking at the following four marketing examples, identify which one is OK under Article 10 of the Code of Ethics?

- a. Advertise only in a strategically limited geographic areas that is populated by a particular ethnic group of people.
- b. Limit advertising to small papers which cater to particular religious groups of people.
- c. Promote a listing only in selected sales offices in communities with similar ethnic populations.
- d. Advertising your knowledge of a language other than English in an English-language advertisement.

11. In an advertisement for a small, two-bedroom house in a neighborhood where many families live, which of the following language is clearly improper under the Fair Housing Act?

- a. Small, cozy home in quiet neighborhood
- b. Two-bedroom home, near playground and senior center
- c. Ideal for couple or single professional
- d. No children

12. Which of the following features are required in ground floor units of non-elevator multifamily building of four units or more built after March 1991?

- a. An accessible building entrance or an accessible route for persons in wheelchairs?
- b. Accessible and usable public and common use areas?
- c. Light switches, electrical outlets, thermostat, and other environmental controls in accessible locations
- d. All of the above.



NAR Fair Housing Quiz Answers – ONLY FOR INSTRUCTOR

1. Under federal fair housing laws, it is legal to prohibit which of the following in a housing unit?

Answer: d. Both a and c. Tenants' activities, such as smoking and drinking, aren't protected.

2. Which of the following are violations or potential violations of the Fair Housing Act?

Answer: c. Both a and b. Excluding prospective buyers on the basis of race is always a violation. Although it's potentially a violation to discriminate on the basis of familial status, "adults only" is acceptable when the housing is specifically designated for older persons pursuant to a state, local, or federal program designed to accommodate the needs of elderly persons. Or the community must

- Be occupied solely by persons who are 62 or older, or
- House at least one person who is 55 or older in at least 80 percent of the occupied units and adhere to a policy that demonstrates an intent to house and provide services to persons who are 55 or older.

3. Under the federal fair housing law, the seven protected classes include

Answer: b. Race, color, religion, sex, handicap, familial status, national origin. Although some interest groups have tried to lobby to include sexual orientation and marital status, these aren't protected classes under the federal law, but are sometimes protected by certain local state fair housing laws.

4. The fair housing laws prohibit all of the following, except

Answer: c. Evicting a current user of illegal drugs. Drug addiction isn't covered under any of the protected classes. In fact, the Fair Housing Act specifically states that current illegal drug users aren't handicapped.

5. The Civil Rights Act of 1968 does which of the following?

Answer: d. Both a and c

6. Based on federal fair housing law, which of the following people would be protected:

Answer: d. All of the above. The 50-year-old white man is protected if he's discriminated against on the basis of his race. However, his age isn't relevant since age isn't a protected class under federal fair housing laws.

7. The Equal Professional Service Model involves all of the following key guidelines except

Answer: b. Is my client working with another agent? One of the purposes of the Equal Professional Service Model is to document that the client, not the practitioner, has set the limits regarding desired properties.

NAR Fair Housing Quiz Answers – page 2

8. When a prospect inquires about the racial makeup of neighborhoods or schools, you should respond by saying:

Answer: b. "The Fair Housing Act prohibits from providing that information. I recommend you contact the school district, municipal government, or the local library." Send prospects elsewhere for an answer to such questions, after reminding them of the fair housing laws.

9. If a seller using a real estate agent refuses an offer because of the buyer's national origin, who may file a federal lawsuit against the seller?

Answer: d. All of the above

10. Looking at the following four marketing examples, identify which one is OK under Article 10 of the Code of Ethics?

Answer: d. Advertising your knowledge of a language other than English in an English-language advertisement.

11. In an advertisement for a small, two-bedroom house in a neighborhood where many families live, which of the following language is clearly improper under the Fair Housing Act?

Answer: d. No children. In addition, c is improper if there is no other language indicating that families with children were welcome. In general, it's best to describe the property and nearby amenities--not the potential buyer--when advertising.

12. Which of the following features are required in ground floor units of non-elevator multifamily building of four units or more built after March 1991?

Answer: d. All of the above. There are a total of seven requirements; the other four are (1) doors designed to be usable by persons in wheelchairs, (2) an accessible route into and through the dwelling unit, (3) reinforcements in bathroom walls for later installation of grab bars, and (4) kitchen and bathroom space organized so an individual in a wheelchair can maneuver about the space.



Discussion Case - Hannah v Sibcy Cline REALTORS®

REALTORS® may remember a case in which a court was asked to look at the intent behind the plaintiff's conduct. In Hannah v Sibcy Cline REALTORS®, 769 NE2D 876 (Oh App, 2001), the Hannahs were African-Americans looking for a home. The Hannahs told their agent, Mary Kay Carroll, that they wished to live in a racially diverse neighborhood. During the initial contacts between Mrs. Hannah and Carroll, Hannah repeatedly asked for information on the racial makeup of the neighborhoods of property that she was viewing.

The Hannahs eventually purchased a home in a neighborhood that turned out to be mostly inhabited by Caucasians. The Hannahs sued Carroll and her broker, Sibcy Cline, for breaching their fiduciary relationship with them. They claimed that since they requested this information and it was clear that they were not requesting this information so that they could discriminate, Carroll was required to provide this information. The Hannahs claimed further that by not providing the information requested, Carroll had breached the fiduciary duty owed to them. The Hannahs also claimed that even if Carroll would not directly provide them with information about the diversity of neighborhoods, she could have directed them to an alternative source for this information.. Lastly, the Hannahs claimed that since they made their requirements clear, they had the right to assume that the homes they were directed toward were in diverse neighborhoods. The Court found for the broker and agent and found that Carroll had no duty to provide this information, to direct them to other sources for this information, or to take this request into consideration when giving them information on homes. The Court's language is instructive in this type of situation. The Court stated:

We conclude that, while a real estate agent or broker may choose to provide such information to a client or to direct a client to resources about ethnic diversity of a particular neighborhood or community, **the agent or broker does so at its own risk**, and there is no fiduciary duty to do so.

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SUMMARIES OF KEY FAIR HOUSING LAWS

CIVIL RIGHTS ACTS OF 1968 AND 1870

The Michigan Association of REALTORS®

Passed at the conclusion of the U.S. Civil War, the provisions of the Acts were routinely ignored in relation to housing transactions until 1968, when the U.S. Supreme Court ruled that the 1968 law prohibits **all forms of racial discrimination** in the sale or rental of housing. The 1870 Act addresses the making of “contracts,” including property contracts, and was intended to ensure that “all persons” shall have “full and equal benefit of all law” as is enjoyed by “white citizens.” The 1968 law, specifically addresses “property rights” as follows:

“All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property.”

FAIR HOUSING AMENDMENTS ACT OF 1988 (Amending the Fair Housing provisions of the CIVIL RIGHTS ACT OF 1968)

This Act, originally passed in 1968 within one week of the assassination of Dr. Martin Luther King, with major amendments in 1974 and 1988, includes protection against discrimination based on: **race, color, religion, sex, familial status (one or more persons under the age of 18 living with a parent, legal guardian or designee of a parent or legal guardian), national origin or handicap status.** Major provisions include:

- The Act applies only to housing and housing related transactions (it does not apply to commercial property transactions) and only applies to providers of housing; it does not prohibit the housing consumer from selecting the housing of their choice for whatever reason is desired.
- The Act applies, with only a few exceptions, to virtually all types of housing transactions (rental, sales, condominium, housing cooperative, mortgage lending, appraising, insuring) in the United States.
- The Act protects against all forms of **differences in treatment**, based on any of the protected categories.
- The Act has been ruled to prohibit otherwise legal and/or neutral actions or policies that produce disparate impacts for protected group persons.
- The Act prohibits statements (including advertising) of an intent to discriminate or that indicate a preference or limitation based on any of the protected characteristics.
- The Act provides exemptions from the familial status provisions of the Act for designated senior citizen facilities.

Fair Housing Act Summaries, page 2

- In relation to persons with disabilities (handicap status), besides providing “equal treatment,” housing providers may also be required, under the Act, to make reasonable accommodations in policies and practices or may be required to make or allowed to be made reasonable modifications to the physical condition of a unit in order to make it possible for a person with disabilities to have access or to use the housing accommodation.
- The Act allows the application of reasonable limitations as to the maximum number of persons who may occupy a dwelling unit.
- The Act protects persons from threats or intimidation related to exercising their “fair housing rights.”
- The Act may be enforced administratively by the Federal Government (the U.S. Department of Housing and Urban Development or, in some cases, the U.S. Department of Justice.) or by aggrieved persons who file actions in the appropriate state or federal court.
- A person filing a complaint may seek, and may be rewarded, temporary and permanent injunctive relief, including the right to complete a transaction and/or occupy a unit; compensatory and punitive monetary damages; attorney fees and costs.

MICHIGAN ELLIOT-LARSEN CIVIL RIGHTS ACT

Originally passed in 1968, with major amendments in 1977 and 1992, this Act mirrors the coverage, the protection and the exemptions of the Federal Fair Housing Act. In addition, the State Act prohibits discrimination in housing based on a person’s chronological age and based on a person’s marital status. The Act applies to both housing and other real estate transactions, including commercial property transactions. The Act provides for administrative enforcement through the Michigan Civil Rights Commission, with administrative complaints filed by aggrieved persons with the Michigan Department of Civil Rights. Like the Federal Act, the State Act also provides the right for aggrieved persons to file private actions in State Circuit Courts without going through the administrative process, with similar penalty provisions.

MICHIGAN PERSONS WITH DISABILITIES CIVIL RIGHTS ACT

Passed in 1976, provisions of this Act helped to shape the 1988 amendments to the Federal Fair Housing Act that expanded that Act to include protection against discrimination based on disability status. Coverage and protection under this Act are similar to the Federal Act, except that the Michigan Act contains the following “undue hardship” language that is not included in the Federal Act:

“Except as otherwise provided in article 2, a person shall accommodate a person with disabilities for purposes of employment, public accommodation, public service, education, or housing unless the person demonstrates that the accommodation would impose an undue hardship.”

Enforcement and penalty provisions mirror the Federal Act and the Elliot-Larsen Act.

Provided by the Detroit Fair Housing Center



SALES AGENT/BROKER FAIR HOUSING GUIDE

The following are some basic fair housing guidelines for sales agents and brokers who provide assistance in the sale of residential and commercial properties in Michigan. These guidelines are based on relevant State and Federal fair housing laws, court decisions and legal opinions that have interpreted those laws. If you have any questions or desire additional information be sure to contact your attorney and/or the Fair Housing Center.

Sales agents and brokers, their employers and the owners of properties for sale are legally responsible for compliance with all relevant fair housing laws. A complaint alleging unlawful discrimination can be filed against you individually and/or as an agent or broker and, if found liable, damages may be assessed directly against you and/or your employer or the owner of the property. An owner may be held responsible even if the unlawful action was engaged in by the agent or broker because the duty to obey the law is non-delegable.

The standard criteria for evaluating equal housing treatment is normally: Have all people been treated equally? Fair housing laws do not raise the issue of how well people are treated. If all applicants are treated poorly, that may be bad for business, but it is not, by itself, a fair housing violation. In most instances, a fair housing violation occurs when a member(s) of a legally protected group is denied the same treatment accorded to members of other groups. With few exceptions, the key for the agent or broker is to treat all people the same, without differences in treatment based on race, color, religion, national origin, sex, age, familial, marital or handicap status. The exceptions involve certain types of senior citizens housing and housing for persons with disabilities, where housing providers may be required to meet special accessibility building requirements or make, or allow to be made, reasonable accommodations for the person's disability.

In order for agents or brokers to feel confident that they are complying with fair housing laws, FHC advises that truthfulness in all transactions is the best and safest policy. It is the most effective way to ensure that all applicants are treated equally. Areas where agents often have needed to be reminded to be truthful include:

- Information about the availability of a particular property;
- Information about properties similar to the type of property requested by the buyer;
- Information related to the location of properties that may be of interest to a buyer;
- Information about price, terms or conditions of sale of a property;
- Information about the qualifications needed by a buyer to purchase a property;
- Information about the types and/or sources of financing needed by or that may be available to the buyer.

FHC Sales Agent/Broker Fair Housing Guide, page 2

Fair housing laws cover, and have been interpreted to cover, acts of encouragement or discouragement of potential buyers, including the use of persons in photos in advertising that would indicate any preference or limitation based on any of the protected characteristics. Some of the activities where agents/brokers need to pay careful attention are:

- Recommending areas and/or specific properties to be considered by the buyer;
- Providing reasons why a buyer should consider one property over another;
- Solicitation or accepting business from either seller or buyer's property;
- Hiring agents, referring business or utilizing financial institutions or appraisers.

FHC recommends that unless required to do so by court order or a government agency, sales agents/brokers should refrain from recording, in any way, the race, color, religion or national origin of the applicant. Such information, if used to deny equal housing opportunity, could provide a basis for a housing discrimination complaint.

Statements volunteered by sales agents/ brokers supporting an affirmative action and/or equal opportunity policy are appropriate and in keeping with fair housing laws if such statements are made to all applicants and not to applicants based on their protected group status. Any other statements concerning the racial, ethnic or religious background of the applicant, the residents of a neighborhood or community, the owners of the property or of any other persons, while by themselves not necessarily unlawful, could provide a basis for a discrimination complaint.

Sales agents/ brokers are advised that federal and state laws protect them from retaliation by an employer/owner if they refuse to follow the employer/owner's instructions to unlawfully discriminate. Agents/brokers, in fact, have standing to bring suit against employers/owners for any attempts to require an agent/broker to violate fair housing laws.

Incidents of harassment based on race, sex, religion, national origin, age, familial, marital or handicap status by owners, agents, brokers, neighborhood residents or others are civil rights violations and should be reported to a fair housing agency in addition to reporting criminal violations to the appropriate local, state or federal enforcement agencies. Failure to report incidents of unlawful activity may expose the agent/broker to court actions arising from such activity.

Sales agents/brokers who display a warm and welcome reception to all customers, and who themselves believe that full compliance with fair housing laws will help produce better communities, will be less likely, and their employers will be less likely, to become defendants in a housing discrimination complaint.

Provided by the Detroit Fair Housing Center