



SELLSTATE

SALES MEETING TOOL KIT: Part 5 FAIR ADVERTISING PRACTICES

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SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Part of every successful marketing effort is visualizing the "perfect" buyers for your listing and "speaking" directly to them through your advertising. But to ensure that every buyer has the equal opportunity to see and make an offer on the "perfect" home, advertising must be written and published in compliance with fair housing regulations. Learning both the letter of the Fair Housing Act and the subtle variations in language that might unintentionally give an exclusionary message help ensure that all buyers have equal opportunity to find the "perfect" home for them.

Use this tool kit—including a ready-to-go agenda, activities, and talking points--to help improve your salespeople's understanding of the Fair Housing Act as it applies to real estate advertising and to let them practice their skills at identifying and eliminating exclusionary practices in their property ads.

Each element of this tool kit is numbered at the top of the page so you can easily move through the content chronologically.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 1: Facilitator Talking Points

These notes will guide you and your salespeople through the ways the provisions of the Fair Housing Act affect real estate advertising practices.

Pre-meeting preparation:

- Review all the meeting documents in this kit
- Know your local and state fair housing laws and any ways they differ from federal statute. If your municipality or state includes protected classes other than those in Handout 1, create a separate handout listing those groups.
- Review your company's policy on fair housing and advertising practices.
- Ask each participant to bring several copies of two recent property ads they have run for properties to the meeting

Print the following:

1. These facilitator notes (Component 1)
2. The Fair Advertising Practices Agenda (Component 2)
3. Handout 1: Who is Protected by Fair Housing? (Component 3)
4. Handout 2: Your Company's Fair Housing Policy? (Component 4)
5. Activity 1: Quiz: Say It Fairly (Component 5)
6. Activity 1: Answer Sheet to Say It Fairly (Component 6)
7. Handout 2: What's in a Word (Component 7)
8. Activity 2: Advertising Critique—Sample Ads (Component 8)
9. Activity 2: Suggested Ad Changes (Component 9)
10. Handout 3: Avoiding the Selectivity Trap (Component 10)
11. Activity 3: Let's Play Ad Agency (Component 11)
12. Activity 3: Ad Creation Tips (Component 12)

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 1: continued

Welcome (1 minute)

True stories (2 min.)

1. Ask the group about whether any of them have been sued or threatened with suit for a fair housing violation by a past client. Ask if they would be comfortable sharing their experiences.

To segue from the true stories to the discussion, tell participants that the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics prohibits REALTORS® from printing, displaying, or circulating any statement or advertisement with respect to the selling or renting of a property that indicates any preference, limitations, or discrimination based on race, color, religion, sex, handicap, familial status or national origin.

Background and goals (2 min.)

Developing targeted advertising that will highlight the features of a property and speak specifically to buyers is a key component of successful real estate sales. But it is also essential to guard against inadvertent exclusionary wording or graphics in developing property advertising.

In this meeting, I'll

- Review the protected classes under the federal Fair Housing Act and applicable state laws.
- List some common words that might be interpreted as discriminatory.
- Practice finding and eliminating discriminatory phrases in sample advertisements.
- Review possible discrimination that may arise from exclusionary ad placement or graphic representations.
- Develop some sample ads that comply with the advertising guidelines of the Fair Housing Act.

Handout 1: Who is Protected by Fair Housing? (5 min.)

Read this summary of Section 804 of the Fair Housing Act that pertains to advertising (Component 3). Ask the group for examples of persons who might fall under each of the protected classes, as well as any other groups protected in your area. Next review the exceptions to the Fair Housing Act. Point out that even though private owners may not be bound by the provisions of the Fair Housing Act in sales or rentals, they may not publish discriminatory advertising.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 1: continued

Handout 2: Your Company's Fair Housing Policy (5 min.) Distribute copies of your company's fair housing policy and briefly review the portions of the policy that pertain to advertising. If your company does not have such a policy, use Component 4 to assist you in developing a written policy.

Activity 1: Quiz, Say It Fairly (10 min.)

Have participants complete this short quiz (Component 5) to see if they can pinpoint some common causes of discrimination violations in advertising. Call on different participants to read the correct answer to each question and why they chose it. Use the Answer Sheet to Say It Fairly (Component 6) to lead the discussion.

Handout 3: What's in a Word? (5 min.)

Review this list of generally acceptable and non-acceptable words for property advertising (Component 7). Ask participants if they can suggest words or phrases to add to either list. Suggest to participants that a good way to determine if a particular word might be discriminatory is to imagine that the ideal buyer for this property is disabled or a member of a minority. Then ask yourself if a word would in any way suggest that this house is not for this ideal buyer. Remind participants that a good basic guidelines is: Describe the property, not the potential buyer or tenant.

Activity 2: Advertising Critique (10 min.)

Ask participants to pass around copies of their recent ads or use the Sample Ads (Component 8). Select two or three depending on the time available), and ask participants to point out any words or phrases that might be interpreted as discriminatory. Ask participants to suggest alternative language that would not seem discriminatory. Use Component 7 as a basis for determining if language might be discriminatory. Use the Suggested Ad Changes (Component 9) to discuss changes in the sample ads that will bring them into compliance with fair housing regulations.

Handout 4: Avoiding the Targeting Trap (5 min.)

Ask participants to review this list of selective advertising placement practices (Component 10) that can result in inadvertent discrimination. Ask participants for suggestions on ways to focus property advertising without falling into the targeting trap.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 1: continued

Activity 3: Let's Play Ad Agency (10-15 min.)

Give participants the opportunity to develop a property ad based on fair housing compliance principles they have learned. Depending on time available, either have participants create ads for the Let's Play Ad Agency property descriptions (Component 11) as a group, or divide participants into three groups. Use the Ad Creation Tips (Component 12) to give examples of acceptable and unacceptable word choices based on these descriptions.

Adjourn, and thank participants for their time.

Running Time: 55 min

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 2: Agenda

Welcome (1 min.)

True stories (2 min.)

Background and Objectives (2 min.)

In this meeting we will:

- Review the classes of individuals protected under the Federal Fair Housing Act and subsequent legislation and any additional groups protected by fair housing legislation in your state.
- Review your company's policy on fair housing
- Learn some words and phrases to avoid in developing advertising.
- Evaluate some ads to detect fair housing violations.
- Practice developing ads that comply with the Fair Housing Act.

Handout 1: Who Is Protected by Fair Housing (5 min.)

Review the groups covered by fair housing legislation, and a few exceptions.

Handout 2: Your Company's Fair Housing Policy (5 min.)

Review your own guidelines for nondiscrimination.

Activity 1: Say It Fairly (5 min.)

Test your advertising phrases that may violate fair housing laws.

Handout 3: What's In A Word? (5 min.)

Learn which words will get you in fair housing hot water.

Activity 2: Advertising Critique

Use your knowledge to recognize and eliminate fair housing violations from some sample ads.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 2: continued

Handout 4: Avoiding the Selectivity Trap (5 min.)

Review these easily overlooked mistakes in ad design and placement that can result in fair housing violations.

Activity 3: Let's Play Ad Agency (10-15 min.)

Use your creativity to develop effective, compliant ads.

Adjourn

Running Time: 55 minutes

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 3: Handout 1, Who is Protected by Fair Housing?

Section 804 of the Fair Housing Act states 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
- handicap—including physical and mental impairments, AIDS and HIV, alcoholism, and prior drug addiction. Current drug addiction or conviction for the sale or manufacture of drugs does not entitle a person to handicap status.
- familial status—any children under 18 years of age who lives with a parent or custodian. Also includes pregnant women and those in the process of adoption.
- national origin
- sex

or any intention to make any such preference, limitation, or discrimination.

Exceptions to Fair Housing Provisions

- Housing intended solely for the elderly. To qualify for this exemption, 80 percent of the units must be occupied by at least one person 55 and older and the policies and procedures of the property must demonstrate that the property is intended for the elderly.
- Religious organizations that own or operate dwellings for other than commercial purposes. These groups may limit sale and rental to persons of the same religion, provided that membership in that religion is not restricted by race, color, or national origin.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 3: continued

- Shared-living arrangements, in which roommates all use the same portions of a dwelling, may advertise preferences based on sex.

Although private owners selling their own properties and private landlords who live on the premises occupied by four or fewer families may show preferences in the sale or rental of their property (with the exception of race), they may not publicize (advertise) the intent to screen prospective buyers or renters.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 4: Suggestions for a Company Fair Housing Policy

While having a written fair housing policy does not guarantee that a company will not be charged with violations of the Fair Housing Act, it does provide guidelines for sales associates and serves as evidence of the company's intent to provide equal opportunity to all customers. Use these guidelines as a starting point for developing a company fair housing policy.

1. Develop a written statement of the company's public commitment to policies of nondiscrimination in all real estate activities, including advertising.
2. Distribute this policy to all sales associates and ensure that all associates receive training in fair housing compliance.
3. Assign a company "fair housing officer" to keep current on any law changes and to answer questions on fair housing issues that arise.
4. Develop an "equal service report" to ensure that all prospects are asked the same qualifying questions. Encourage associates to retain copies of these reports for two years as proof of fair treatment.
5. Keep records of all advertisements and ad placements for two years as proof of fair advertising policies.
6. Monitor associate behavior for possible discrimination and take action to correct failures in performance.

Excerpted from *Don't Risk It: A Broker's Guide to Risk Management*, 2nd edition, published by the NATIONAL ASSOCIATION OF REALTORS®.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 5: Activity 1, Say It Fairly Quiz

Take this brief quiz and test your understanding how the Fair Housing Act applies to advertising.

1. You must include an Equal Opportunity logo in ads larger than 3 inches by 3 inches that promote residential property for sale.

T F

2. The description of a house used on the local MLS is also subject to fair housing guidelines.

T F

3. Indicating in an ad that a property has handicapped accessibility is a violation of the Fair Housing Act.

T F

4. Brokers are liable for discrimination in ads placed by sales associates even if they had no knowledge of the ad before publication.

T F

5. It is acceptable to use only white models in your advertising provided that your market area is at least 85 percent white and that you do not include any discriminatory language in the copy of your ads.

T F

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 6: Activity 1, Say It Fairly Quiz Answers

1. You must include an Equal Opportunity logo in ads larger than 3 inches by 3 inches that promote residential property for sale.

Answer: False. The Fair Housing Act does not require the use of Equal Opportunity logo or slogan in any ad. However, using the logo is good evidence of the company's commitment to fair housing compliance. Regulations do require the display of the HUD fair housing poster at the brokerage office and at dwellings under construction.

2. The description of a house used on the local MLS is also subject to fair housing guidelines.

Answer: True. Information made available over an MLS, including any comments on the listing, is subject to the same fair housing guidelines as any other form of advertising.

3. Indicating in an ad that a property has handicapped accessibility is a violation of the Fair Housing Act.

Answer: False. Information on accessible features such as ramps and grab bars is permissible in advertising a dwelling for either sale or rental.

4. Brokers are liable for discrimination in ads placed by sales associates even if they had no knowledge of the ad before publication.

Answer: True. Brokers may be named in any discrimination suits brought against agents under their control. To protect themselves, brokers should have a written company fair housing policy, train all associates in fair housing practices, and take prompt action to identify and correct failures in performance. Note: If the brokerage is incorporated, it is generally the corporation that is liable, not an innocent broker personally.

5. It is acceptable to use only white models in your advertising, provided that your market area is at least 85 percent white and that you do not include any discriminatory language in the copy of your ads.

Answer: False. Advertising that uses only models of one race over an extended period of time is considered discriminatory. Models used in property advertising should also include both sexes, children, persons with a variety of disabilities, and a diversity of racial and ethnic representatives.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 7: Handout 3, What's in A Word?

Choosing the best word in your ads not only attracts buyer but guards against discrimination. In selecting wording for your property ads:

- Avoid any words or phrases in advertising that convey the preference of one group over another. When in doubt use words that describe features on the property—jogging trail—rather than the features of the buyer who might want to use the feature—great for joggers.
- Avoid words or phrases relating to race, color, religion, age, familial status, or national origin to describe the dwelling, the area, the tenants, or the owners. For example, Hispanic neighborhood, adult building
- Avoid catchwords such as "exclusive," "private," or "integrated" to convey preferences for one group over another.
- Never write directions that include references to well-known racial, ethnic, or religious landmarks.

Acceptable Words

Family room

Cozy

Near Radner Elementary School

Friendly neighborhood

Secluded

Private driveway/entrance

Quality construction

Mother-in-law suite

Play area

Prestigious

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 7: continued

Words to Avoid

Perfect for singles

Ideal for couple

Empty nesters

Near St. Michael's Catholic Church (Avoid Locations or landmarks that have religions or ethnic overtones.)

Integrated neighborhood

Restricted community

Senior citizens (except for qualified housing for older persons)

Active

Adult

Singles

Executive

Board approval required

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 8: Activity 2, Advertising Critique

These sample ads illustrate some commonly used promotional phrases that violate Fair Advertising practices.

Exclusive Home On Golf Course

Retire with your spouse in luxury to this stylish 3-bedroom home with pool. Cabana equipped with grab bars and ramp could easily convert to mother-in-law suite or guesthouse. Cathedral ceilings and great view of private lake. Short walk to health club helps you stay physically fit.

Handyman's Dream

If you're good at fixing things and aren't too busy to spend some sweat equity, this home is for you. Secure neighborhood near Loyola Cathedral School, Bethel Synagogue and Lantry Grocery. Get in on the ground floor of this quiet, rapidly improving neighborhood.

Cozy Cottage

This tiny gem is so quaint, you'll think you're in the country. Perfect for a single or young couple ready to buy their first home or empty nesters who want to downsize. Two bedrooms and recently renovated bathroom makes this home ready to occupy. Mature garden. Walk to library and park with play area.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 9: Activity 2, Suggested Ad Changes

Exclusive Home On Golf Course

Retire with your spouse in luxury to this stylish 3-bedroom home with pool. Cabana equipped with grab bars and ramp could easily convert to mother-in-law suite or guesthouse. Cathedral ceilings and great view of private lake. Short walk to health club helps you stay physically fit.

Suggested changes:

"Exclusive" might imply restrictions on minorities—change to "Desirable" or "Tranquil"

"Retire" might imply preference for senior citizens—inappropriate unless community is age restricted

"Grab bar" and "ramp" (accessibility features) are permitted even though they indicate facilities for seniors or handicapped.

"Mother-in-law suite" is considered by HUD to be an acceptable description of a separate unit.

"Health club" is permissible because it states a feature of the property without implying a preference for those who might take advantage it.

"Short walk" and "physically fit" might imply discrimination against persons with disabilities. It's better to say a health club is nearby.

Handyman's Dream

If you're good at fixing things and aren't too busy to spend some sweat equity, this home is for you. Secure neighborhood near Loyola Cathedral School, Bethel Synagogue, and Lantry Grocery. Get in on the ground floor of this rapidly improving, quiet neighborhood.

Suggested changes:

"Handyman's" is permissible, since it is used as a generic description—Fixer-upper would be even better.

Loyola Cathedral School and Bethel Synagogue might imply preferences for buyers of those religions, substitute near places of worship.

Secure and improving neighborhood might imply a racially mixed neighborhood and should be avoided.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 9: continued

Cozy Cottage

This tiny gem is so quaint, you'll think you're in the country. Perfect for a single or young couple ready to buy their first home or empty nesters who want to downsize. Two bedrooms and recently renovated bathroom makes this home ready to occupy. Mature garden. Walk to library and park with play area.

Suggested changes:

Cozy is permissible because even though it implies a small size, it does not indicate a desire to limit the number of occupants. Single, young couple, and empty nester all imply a preference for families without children and should be avoided.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 10: Handout 4, Avoiding the Targeting Trap

In many cases, advertising violates the Fair Housing Act because of poor word choices. But pictures, graphics, and media placement strategies may also result in exclusionary advertising. Consider these three major causes of nonverbal violations and some strategies for avoiding them.

1. Avoid selective use of advertising media. For example, as a general rule, do not run ads in zoned editions of newspapers or specialty newspapers (for example, a paper in a foreign language) that are distributed only in particular geographic areas or targeted to a particular ethnic or national group. Such an advertising strategy is particularly suspect if the decision is based on limiting the awareness of the property among certain protected groups. Using selective advertising media on a regular basis has the effect of preventing other groups from learning about the property.

Solution: Formulate your market based on other criteria—income, desire for a maintenance-free lifestyle, desire for lots of room for entertaining, access to activities—which do not depend on their inclusion in or exclusion from a protected class. Advertise property in a broad range of media.

2. Avoid using human models representing only one group in an advertising program. Models should be clearly definable as representing majority and minority groups, both sexes, persons with various disabilities, and children.

Solution: Either avoid the use of human models in photos or graphics, or plan a series of ads that rotate illustrations featuring different groups.

3. Avoid erratic use of the Equal Housing Opportunity logo or statement. Although using these symbols in ads is optional, using it only in some ads might be considered a subtle signal that minority buyers are welcome for only some homes.

Solution: Although it is not legally required, make a habit of using the equal opportunity logo in all ads of four column inches or larger (in line with HUD guidelines) as a way to demonstrate a commitment to fair housing.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 11: Activity 3, Let's Play Ad Agency

Use these three property descriptions to create sample ads that comply with the Fair Housing Act.

1. Property Details: Four-bedroom, three-bath house, brick colonial, established neighborhood, finished basement, ½ acre lot professionally landscaped with built-in putting green and brick barbecue for entertaining. Near historic town center with Wesleyan Church, Old Court House, Old North Cemetery, park with jogging trail and workout area, and restaurants. No schools nearby. Priced at \$500,000 (top end of market).

2. Property Details: A large old house near a university occupied by the owner. She is an elderly lady who wants to rent an upstairs floor finished as a separate apartment, with small kitchen and separate entrance. She does not want students because she thinks they are noisy and will not take care of her house. She will lower rent for the "right person."

3. Property Details: A modern house just built in a rapidly gentrifying in-fill neighborhood that five years ago had the highest crime rate in the city. Two large bedrooms, deck with Jacuzzi, and eat-in kitchen. Garage and small backyard. Priced at mid-market for new construction in the area.

SALES MEETING TOOL KIT FAIR ADVERTISING PRACTICES

Component 12: Activity 3, Ad Creation Tips

1. Property Details: Four-bedroom, three-bath house, brick colonial, established neighborhood, finished basement, ½ acre lot professionally landscaped with built-in putting green and brick barbecue for entertaining. Near historic town center with Wesleyan Church, Old Court House, Old North Cemetery, park with jogging trail and workout area, and restaurants. No schools nearby. Priced at \$500,000 (top end of market).

Ad tips:

- Don't promote this as empty-nester home.
- Don't tie location to church.
- Mention jogging trail, but don't promote "to joggers".
- Avoid words such as executive and exclusive.

2. Property Details: A large old house near a university occupied by the owner. She is an elderly lady who wants to rent an upstairs floor finished as a separate apartment, with small kitchen and separate entrance. She doesn't want students because she thinks they are noisy and will not take care of her house. She will lower rent for the "right person."

Ad tips:

- Avoid phrases such as "right person," which might be considered discriminatory.

3. Property Details: A modern house just built in a rapidly gentrifying in-fill neighborhood that five years ago had the highest crime rate in the city. Two large bedrooms, deck with Jacuzzi, and eat-in kitchen. Garage and small backyard. Priced at mid-market for new construction in the area.

Ad tips:

- Even though house is small, avoid mentioning its suitability for a couple or single.
- Avoid mention of improved safety and gentrification, which might imply a preference for non-minorities in the neighborhood.

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 13: Other Resources

[Field Guide to Fair Housing](#)

[Four Ways to Avoid Discrimination in Your Ads](#)

[Fair Housing Quiz](#)

[8 Real-Life Fair Housing Violations](#)

[Fair Housing in the Trenches](#)

[Fair Housing Compliance Checklist](#)

[5 Keys to Reducing Fair Housing Liability](#)

[4 Strategies from a Fair Housing Trainer](#)

[Red Flags for Potential Violations](#)

[2 Discrimination Cases: You Be the Judge](#)

[Fair Advertising Practices](#)

[Watch Your Language](#)

[Illegal Target Marketing](#)

[Fair Housing and Disabilities](#)

[Comply With the ADA at the Brokerage Office](#)

[Field Guide to Complying with the ADA](#)

[NAR's Commitment to Fair Housing](#)

SALES MEETING TOOL KIT: FAIR ADVERTISING PRACTICES

Component 13: continued

[NAR's At Home With Diversity Program: Fair Housing Resources](#)

[At Home With Diversity: Other Resources](#)

[REALTOR.org Store: Risk Management Publications](#)

[Fair Housing Talking Points](#)

[Legal Case Search](#)