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Legal Affairs

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“Love Letters” Create Fair Housing Risk

“Love letters” are tools used by some buyers to stand out to a seller. These letters are especially popular when competition for homes is high, such as it is right now with historic low inventory across Indiana (and much of the U.S.).

Although these letters may seem harmless, they can create fair housing risk since they often contain personal information and characteristics of the buyer, such as race, religion, or familial status. These facts could then be used, knowingly or through unconscious bias, as an unlawful basis for a seller to accept or reject an offer.



Fair Housing laws require selling real estate to anyone who is qualified, regardless of an individual's inclusion in any protected class, such as race, religion, or familial status.

While it is one thing for a buyer love letter to tell a seller how much they like a property because of its location, style, or characteristic of the home, these letters often get much more personal and include statements such as:

- “I can see our children celebrating Christmas here.”
- “My wife and I would love to raise our family in this house.”
- “I finally found a home that can accommodate my wheelchair after months of searching.”
- “We are so excited to send our children to the parochial school and church nearby.”

There is a nationwide concern that these personal information letters, which often contain details or photos of families, may violate the Fair Housing Act, as well as **Article 10 of the REALTOR® Code of Ethics**:

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

As real estate professionals, you should be aware of the danger and potential liability with love letters, should discourage buyers from writing letters to sellers, and discourage sellers from accepting or reviewing letters to help promote Fair Housing.

Buyer agents should consider raising fair housing concerns with their buyer clients, and not read or accept love letters drafted by these clients.

Listing agents should discuss potential liability during the listing interview and not accept or deliver a love letter to their seller clients.

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Where a love letter is accepted, consider having the seller and buyer's attorney review it and keep a record, showing good faith efforts to advise against this practice.

Tips to avoid legal and ethical issues with love letters:

- Discuss possible conflicts with Fair Housing laws.
- Tell sellers they do not have to view love letters.
- Let buyer agents know that love letters will not be reviewed or looked at by the seller(s) if the seller(s) make this decision.
- If buyers want to submit love letters, advise them to consult a lawyer.
- If sellers want to read love letters, advise them to consult a lawyer.
- Only pass along love letters to sellers if they are part of the offer as you have a duty under Indiana law and the REALTOR® Code of Ethics to pass along offers on a property.
- Sellers who do accept love letters should be prepared to demonstrate a non-discriminatory reason for accepting that buyer, especially where that buyer did not present the highest offer.
- Love letters and personal pictures are generally NOT part of the purchase agreement and will likely not be provided to a lender or title company if the offer is fully executed. As a listing agent, however, you cannot withhold the letter, if provided as part of or incorporated into the offer, without the seller's permission. Otherwise, Indiana license law as well as Article 1 of the REALTOR® Code of Ethics, Standards of Practice 1-6 and 1-7 require agents to submit all written offers on a property to their clients objectively and as quickly as possible.

Best practices to protect yourself and your clients from Fair Housing liability:

- Educate your clients about Fair Housing laws and the pitfalls of buyer love letters.
- Inform your clients that you will not deliver buyer love letters and advise others that no buyer love letters will be accepted by your seller (with seller's permission).
- Remind your clients that their decision to accept or reject an offer should be based on objective criteria only.
- If your clients insist on drafting a buyer love letter, do not help your client draft or deliver it. Advise them to seek legal counsel.
- Avoid reading any love letter drafted or received by your client.
- Document all offers received and the seller's objective reason for accepting an offer.

Do love letters really add anything to the offer? Probably not. A seller's decision should be based on price/terms/ability to close. If the seller instructs the listing agent to withhold these letters and pictures, there will be no violation by agents of their legal or ethical duties to submit all offers and may help prevent future Fair Housing claims. For this reason, listing agents should consult with their seller clients upfront, and, with the seller's permission, remove these pictures and letters from offers presented.

If you have any questions regarding Love Letters, please contact the IAR Legal Hotline at 1-800-444-5472, or complete this [online form](#). As a reminder, the IAR Legal Hotline is available to Managing Broker members and their designated agents, Monday – Friday, 9 am – 5 pm Managing Brokers, need to designate an agent to use the Legal Hotline? Do it [online here](#).

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