

# focus on: Legal Affairs

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## Fair Housing Q & A



Since April is Fair Housing month, it is always a good time to review some basic fair housing facts and ensure that you are minimizing your liability exposure. As always, thank you for your Legal Hotline questions and continued support. Please remember that principal and managing brokers or their written designates may reach the IAR Legal Hotline at 1-800-444-5472 or by fax at (317) 842-8494, between 9:00 a.m. and 5:00 p.m., Monday through Friday. You may also e-mail your questions to [legalhotline@indianarealtors.com](mailto:legalhotline@indianarealtors.com) and you will receive a phone call in response to your faxes and e-mails.

**Q:** What are the protected classes of people under the Fair Housing laws?

**A:** The Fair housing laws identify the following seven classifications of those which are protected: race, sex, color, religion, handicap, national origin, and familial status. In addition, the REALTOR® Code of Ethics prohibits discrimination based on sexual orientation and gender identity.

**Q:** What if my seller wants me to use a marketing strategy that is designed to target a certain group of buyers?

**A:** The fact that a seller has requested that the advertisement for a property appear to target a certain buyer would not change the liability exposure of the real estate agent/broker placing the advertisement. Also, the seller may be liable for violating the Fair Housing laws. The agent/broker should explain to the seller that the Fair Housing Act prohibits targeting advertisements to one particular segment of the community and conveying preference to one group over another or exclusion due to race, color, religion, sex, handicap, familial status (children under 18) or national origin.

**Q:** Several salespersons in our real estate firm provide property management for several of our clients. They occasionally place rental advertisements for these properties. Is my real estate firm responsible for screening their ads?

**A:** Yes. The broker is responsible for the acts of the salespersons and must provide supervision with respect to all written advertisements.

**Q:** How can I avoid questions about whether I am treating everyone fairly in managing rental properties?

**A:** You should establish procedures and criteria for selecting tenants which are applied in all situations. For example, you may include: rent-to-income ratio; credit record; rent payment pattern; and household size.

**Q:** Are there certain words which REALTORS® should avoid when advertising a home for sale or lease?

**A:** Yes. The following are examples of words or phrases which should not be used: white, black, colored, Asian, Protestant, Catholic, Christian, Jew, Mexican, African, male only, female only, deaf, exclusive, mature persons, restricted community, adult building, singles. Note that this is not a complete list but rather some suggestions.

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**Q:** What words CAN be used in advertising in order to avoid any fair housing issues?

**A:** In general, with regard to fair advertising, descriptions of property usually physical in nature, which are not preferential or limiting (i.e. two bedrooms, cozy, family room, quiet streets, etc.) are not discriminatory on their face and do not violate fair housing advertising rules. In other words, we suggest you always describe the property and never the “appropriate” persons. You may also indicate that the property is accessible to handicapped individuals or intended for and operated as housing for older persons.

**Q:** What about internet advertising?

**A:** Any fair housing violations resulting from published advertising in the internet carries the same liability as advertising published in printed materials. There were cases in the past of some MLSs being sued because their participants included illegal remarks such as “great for empty nesters” or “no children” in their internet listings.

**Q:** What if I didn’t intend to discriminate – is it really discrimination then?

**A:** Yes, intent is not a required element of a fair housing violation. Violations are judged by whether an advertisement would suggest to an ordinary reader that a protected class is preferred or disfavored.

**Q:** Where can I go for additional information about fair housing rules and procedures?

**A:** There are a number of sources for fair housing information. The Indiana Association of REALTORS® website has fair housing information (as well as helpful information on a variety of real estate issues). [www.indianarealtors.com](http://www.indianarealtors.com). Other helpful websites are: [www.hud.gov](http://www.hud.gov); [www.realtor.org](http://www.realtor.org); and [www.fairhousing.com](http://www.fairhousing.com). You may also contact your local HUD or Fair Housing and Equal Opportunity field office.

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