



Advertising under the Fair Housing Act

The Fair Housing Act (FHA) makes it 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, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. 42 U.S.C. § 3604(c).

- ❖ **It is important to note that this applies to all spoken or written statements, including words, pictures, or symbols that suggests that housing is not available to a particular groups.**

The prohibition against discriminatory advertising also applies to advertisements where the underlying property may be exempt from the FHA. In other words, if a property is exempt under the “Mrs. Murphy’s Exemption,” the housing provider (Mrs. Murphy) may still be in violation of the advertising section of the FHA if she makes or publishes a discriminatory statement, even though she is exempt from following other areas of the FHA, such as permitting an accommodation for a disabled tenant.

Advertising Related to Religious Discrimination

If the legal name of a property contains a religious reference (or its logo contains a religious symbol), the ad containing the name or logo may indicate a religious preference to a potential tenant. However, if the ad also includes a disclaimer that the housing provider does not discriminate, the ad will most likely not violate the law since the housing provider is expressly attempting to negate the potential discriminatory effect of the religious reference.

Advertisements with Commonly-Used Terms

Terms such as “mother-in-law suite” and “bachelor pad” are commonly used as physical descriptions. In most cases, these descriptive terms will not violate the FHA. In Hawaii, the term “Ohana unit” may be used in an ad. The same would hold true to using this term if it is being used as a means of description to indicate a free standing unit on a larger property.

Examples of Discriminatory Advertising

- ❖ A condominium complex with a written rule which states that individuals under 16 years of age are prohibited from residing at the complex. This is also a violation of the Fair Housing Act prohibiting discrimination based on familial status.
- ❖ A rental office which has pictures of only white residents on its walls.
- ❖ An advertisement which includes a picture of a nearby church.
- ❖ A real estate agent describing a neighborhood in racial or ethnic terms to a home seeker.

Advertisements for available housing should not describe the type of tenant a housing provider is looking for. The advertisement should provide only a description of the property and the unit.