

CONTINUING EDUCATION

Fair Housing Made Easy

Course Number C20200483 | 3 CE HOURS



COURSE DESCRIPTION:

Welcome to the PDH Academy course *Fair Housing Made Easy*. The learning objectives of this course are as follows:

1. History of Fair Housing Laws
2. Protected Classes
3. Unlawful Discriminatory Practices
4. Advertising Legally
5. Complaint Process & Enforcement
6. Fair Housing Case Studies

IMPORTANT INFORMATION

To enhance comprehension, review questions will be asked throughout the course. These review questions will NOT be graded. Final exam questions can be found at the beginning of the course. These questions will be graded to check for mastery of the course material. If you do not pass the final exam you can review the course material and retake the exam at no additional cost.

If assistance is needed with this course you can contact PDH Academy at 888-564-9098 or at support@pdhacademy.com.

After completing the course and final exam, we ask that you take our course survey found at the end of the book to help us continue to provide high-quality continuing education.

Fair Housing Made Easy

Final Exam

1. A real estate agent shows a first floor unit to a single man, but tells a single woman that it is already under contract. This is an example of:
 - a. Discrimination based on gender
 - b. Discrimination based on familial status
 - c. Discrimination based on race
 - d. Discrimination based on sexual orientation
2. How long after an alleged violation can someone file a complaint?
 - a. 1 month
 - b. 6 months
 - c. 1 year
 - d. 5 years
3. Who typically pays for a reasonable modification?
 - a. The person requesting the modification
 - b. The housing provider
 - c. HUD
 - d. None of the above
4. Which is NOT an example of religious discrimination?
 - a. Refusing to rent to a couple because they are Catholic
 - b. Offering a lower rent to a 25 year old man because he is Jewish
 - c. Refusing a mortgage to a Muslim woman because she does not have good credit
 - d. Requiring a higher security deposit to a family because they are Christian
5. What is an example of quid pro quo sexual harassment?
 - a. Refusing maintenance work until sexual conduct is performed
 - b. Inappropriate touching
 - c. Unwelcome sexual gestures
 - d. None of the above
6. Which of the following is an example of a reasonable accommodation?
 - a. A change in policies regarding parking spots
 - b. Installing a ramp to access the front entrance
 - c. Installing grab bars in a bathroom
 - d. Replace door knobs with levers
7. Which of the following is not a federally protected class?
 - a. Race
 - b. Religion
 - c. National Origin
 - d. Veteran
8. Landlord John checks the credit score of black applicants and refuses to rent to anyone without a 650 credit score. For white applicants, he rents to anyone with at least a 500 credit score. This is an example of:
 - a. Discrimination based on race
 - b. Discrimination based on gender
 - c. Discrimination based on marital status
 - d. Discrimination based on disability
9. The Smith family asks the property manager of their apartment building to have the lead based paint in their unit controlled. Which of the following would be an appropriate action for the property manager?
 - a. Evict the Smith family
 - b. Raise the rent to cover the cost of remediation
 - c. Ask for the Smith family would be willing to move to another unit that has already undergone the lead based paint treatment
 - d. Do nothing because it is the Smith's responsibility to control the lead based paint
10. Which of the following circumstances should be taken into account when determining an occupancy limit?
 - a. Size of the bedrooms
 - b. Age of the children
 - c. All of the above
 - d. None of the above, the requirement is 2 persons per bedroom
11. Which of the following factors should NOT be considered in a fair housing complaint?
 - a. The immigration status of the complainant
 - b. The circumstances surrounding the complaint
 - c. The gender of the complainant and respondent in a gender discrimination case
 - d. The relationship between the complainant and respondent
12. What was the main results found in a large scale study on housing discrimination against same sex couples in 2013?
 - a. There was no discrimination between same-sex and heterosexual couples
 - b. There was significantly less discrimination between same-sex and heterosexual couples
 - c. There was significantly more discrimination between same-sex and heterosexual couples
 - d. The results were inconclusive because the study was flawed

13. Which of the following practices is allowed under the Fair Housing Act?
- Refusing to sell housing on the basis of color
 - Make housing unavailable to persons with poor credit
 - Deny a dwelling because of national origin
 - Set different conditions based on gender
14. A property manager refuses to rent an apartment to a prospective tenant who is transgendered. If the denial is because of the prospective tenant's non-conformity to gender stereotypes, this may be discrimination based on which protected class?
- Sex
 - Disability
 - National Origin
 - None of the above
15. Which of the following statements best describes the HUD guidelines for the use of human models in brochures?
- There must be at least 1 white and 1 black person on all advertising
 - HUD discourages the use of human models in advertising
 - There must be at least one minority represented in all online advertising
 - It should reflect the diversity of the community
16. What does it mean if a licensee displays the fair housing logo in their advertising?
- It shows they are in the real estate industry
 - It shows they only work with white families
 - It shows they are committed to complying with fair housing practice
 - It shows they received the Equal Opportunity Realtor® Certification
17. Which protected class makes up the majority of fair housing discrimination complaints?
- Religion
 - Familial Status
 - National Origin
 - Disability
18. A property manager at Blue Oaks refuses to rent to a family of five. Which of the following scenarios is most likely a cause for discrimination based on familial status?
- The family was trying to rent a 1 bedroom apartment
 - The property manager made a comment to the family that they had too many children
 - The family did not have the income to support renting a unit at Blue Oaks
 - The property manager made a comment that he loves seeing children in the building
19. Which of the following phrases would constitute discrimination based on familial status?
- No bicycles allowed
 - Quiet streets
 - Perfect for small children
 - None of the above
20. John and Sally, a Korean couple, asks a real estate agent to see homes in Pine Knolls. The agent says that Oakwood Estates is much better because it has a large Korean community. This is an example of:
- Discrimination based on national origin
 - Discrimination based on marital status
 - Discrimination based on gender
 - Discrimination based on familial status
21. What can a landlord do to ensure a tenant restore the property to its original condition after a reasonable modification is made?
- Deduct the cost of the repairs from the rent
 - Require the tenant to make payments into an escrow account
 - Deduct the cost of repairs from the security deposit
 - Require the tenant to pay double the rent for no less than 3 months
22. Which of the following are important fair housing considerations for developers building new multi-family housing?
- They must make sure to include affordable housing units in the building
 - They should make sure to comply with all accessibility requirements
 - They should make sure to include a restaurant and gym in the building
 - They should make sure to have an on-site property manager to address issues
23. Which of the following practices should real estate agents adopt when potential buyers call about their listing to avoid any fair housing issues?
- Give out different answers on the status of the property depending on whether the buyer has children or not
 - Give the same answer on the status of the property to all prospective buyers
 - Immediately ask the buyer if they would like him or her to represent them in the transaction
 - Tell the buyer to get pre-approved first.
24. What kinds of opportunities are closely tied with where a person lives?
- Exposure to violence
 - Reliable transportation
 - Quality schools
 - All of the above
25. If a maintenance worker is found to be sexually harassing a tenant, who is responsible for the worker's actions?
- The management company
 - The maintenance worker
 - The tenant
 - Both A and B
26. Which of the following could be a housing discrimination case?
- A real estate agent refuses to show a buyer properties in a neighborhood whose minimum price is \$1,000,000 knowing that she is only pre-approved for \$700,000.
 - A real estate agent refuses to show a buyer properties in a neighborhood because the buyer already told her that she does not want to live there
 - A real estate agent only shows a Korean buyer homes in a neighborhood that is predominantly Korean.
 - A real estate agent shows a buyer in a wheelchair all available units in a condo building regardless of the floor it is on.
27. Which of the following may be considered questionable language when advertising?
- 5 bed, 3 bath home - perfect for your growing family
 - 2 bedroom condo in the heart of the city
 - 3 bedroom townhouse with additional bedroom in the basement
 - 4 bedroom home with 1 car garage - commuter's dream!
28. In 1988, the Fair Housing Act as amended to include which of the following protected class(es)?
- Sexual orientation only
 - Familial status only
 - Familial status and disabilities
 - Familial status and sexual orientation
29. A real estate agent refuses to show a condo because a blind woman has a seeing-eye dog. This is an example of:
- Discrimination based on national origin
 - Discrimination based on disability
 - Discrimination based on gender
 - Discrimination based on familial status
30. Green Acres Management Company is notified of a complaint filed by one of their tenants against a maintenance worker employee. Which of the following best describes what Green Acres should do?
- Immediately fire the employee
 - Talk with the employee and the complainant to resolve the situation as quickly as possible
 - Immediately evict the tenant
 - Do nothing since Green Acres has no responsibility over the actions of the maintenance works.

INTRODUCTION

In this 3 hour course, we will provide a comprehensive overview of the Fair Housing Act. We will cover the history of Fair Housing and related laws. We will define the protected classes under the Fair Housing Act and also discuss additional cases specific to each protected class. We will also discuss how real estate agents must comply with fair housing in advertising. Throughout this course we will provide many examples, both theoretical and in real life, to illustrate fair housing violations and outcomes.

This course has the following learning objectives:

- List the protected classes under the Fair Housing Act
- Identify situations that violate the Fair Housing Act
- Summarize the process of filing a Fair Housing Act complaint
- Prepare advertising for housing that is in compliance
- Locate additional fair housing resources and documents

OVERVIEW OF FAIR HOUSING

Throughout history there have been (and still are) examples of inequality and under-representation in many situations from business practices to civil rights. Unfortunately, these issues are also present in the housing industry. In 2014 alone there were 27,528 housing discrimination cases filed with the National Fair Housing Association members, The Department of Housing and Urban Development (HUD), agencies participating in HUD's Fair Housing Assistance Program, and the Department of Justice (DOJ). The basis of these complaints were by disability (51.8%), Race (22%), Familial Status (11%), National Origin (6.5%), Sex (6.5%), Color (1.4%), Religion (1.3%), and Other (7.8%). Note that totals may exceed 100% since some complaints involve multiple protected classes.

Source: NFHA 2015 Fair Housing Trends Report

This course provides a comprehensive overview of the many aspects of fair housing including its history, who is protected under fair housing, and what actions violate the fair housing act. Throughout this course we will provide many examples of fair housing situations.

Why Fair Housing?

While it may seem obvious that everyone deserves to be treated fairly when it comes to buying, selling, or leasing property, there are also many benefits to having a diverse neighborhood and community.

According to the National Fair Housing Alliance (NFHA) 2015 Fair Housing Trends Report, where someone lives is closely tied to the opportunities that

are available for that person. These opportunities may include access to quality schools, jobs, reliable transportation, air quality, water quality, exposure to violence, and opportunity to build wealth through owning your own home. Economically, research has shown that economic performance of geographic regions with high rates of poverty and high levels of segregation is worse than that of places that are less segregated.

Therefore, an important duty of a real estate licensee is to ensure that all prospective buyers, sellers, and renters are treated fairly.

HISTORY OF FAIR HOUSING LAWS

Civil Rights Act of 1866

This was the first fair housing law that prohibited racial discrimination in the sale or rental of the property.

Fair Housing Act

The Fair Housing Act, also known as Title VIII of the Civil Rights Act of 1968 prohibits discrimination in renting, selling, and financing dwelling based on certain protected classes. These protected classes are race, color, national origin, religion, sex, familial status, and disability. The original Fair Housing Act only protected race, color, national origin, religion, and sex. The Fair Housing Amendments Act of 1988 expanded the protected classes to include familial status and disabilities and also established stricter penalties for violations. The Fair Housing Act also established design and construction requirements for all multifamily dwellings (4+ units) that were first built or occupied on or after March 13, 1991. The Department of Housing and Urban Development administers the Fair Housing Act. A full copy of the Fair Housing Act can be found at: <http://www.justice.gov/crt/fair-housing-act-2>

Americans with Disabilities Act

The Americans with Disabilities Act of 1990 prohibits the discrimination of persons with disabilities. In 2010, the ADA added Standards for Accessible Design. In most cases, the ADA does not apply to residential housing. However, Title III of the ADA covers public and common use areas at housing developments when they are considered public areas open to the general public. Therefore, a rental office would be covered by the ADA.

Equal Credit Opportunity Act

The Equal Credit Opportunity Act makes it unlawful for mortgage companies to discriminate based on race, color, religion, national origin, sex, marital status,

age, or because all or part of the applicant's income is derived from any public assistance program.

Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of race, color, or national origin in programs receiving federal financing assistance.

Housing for Older Persons Act (HOPA)

The Housing for Older Persons Act (HOPA) amends Title VIII of the Fair Housing Act. It was signed into law in December 1995. HOPA allows senior communities to be exempt from discrimination against familial status. However, the senior communities are defined as:

- 100% of the occupants must be 62 years of age or older OR
- 80% of the occupied units must be occupied by at least one person who is 55 or older.

HOPA also requires communities seeking this exemption to show the following factors:

- Housing is intended and operated for persons 55 years of age or older
- The community agrees to publish and adhere to policies and procedures that demonstrate its intent to qualify for the exemption. They must also be willing to allow HUD to verify their occupancy.

HOPA also eliminated the need for communities to provide "significant facilities and services" from the exemption because this provision was seen as hindering the availability of senior housing.

National Association of Realtors® Code of Ethics

While not a law, all REALTORS® agree to abide by NAR's Code of Ethics, which states the following:

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.

review questions...

The following 5 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

- 1. Approximately how many housing discrimination cases are filed with the National Fair Housing Association in 2014?**
 - a. Less than 10,000 cases
 - b. Between 10,000-50,000 cases
 - c. Between 50,000-100,000 cases
 - d. Over 100,000 cases
- 2. The economic performance of geographic regions with high levels of segregation is _____ than that of places that are less segregated?**
 - a. Significantly better
 - b. Only slightly better
 - c. Similar
 - d. Worse
- 3. In what year was the first fair housing law passed?**
 - a. 1776
 - b. 1821
 - c. 1866
 - d. 1968
- 4. A housing community has 70% of its occupants as being 55 years of age and older. Is this considered a senior housing community?**
 - a. Yes, because a majority of its residents are over 55
 - b. No, because the community does not have at least 80% of the community over 55
 - c. No, because the community must be 100% occupants over 55
 - d. Yes, because at least 20% of the residents are over 55 years of age and older
- 5. Which amendment to the Fair housing Act allows senior communities to be exempt from discrimination against familial status?**
 - a. Civil Rights Act of 1964
 - b. Familial Status Act of 1988
 - c. Housing for Older Persons Act
 - d. Elderliness Amendment

1.b
2.d
3.c
4.b
5.c
Review Question Answers:

PROTECTED CLASSES

The following classes are protected through Federal Law:

Race: It is illegal to discriminate based on a person's race (e.g., Caucasian, African American, Asian, Latino, Native American, etc...)

Color: It is illegal to discriminate based on the color of a person's skin

Religion: It is illegal to discriminate based on a person's religion (e.g., Christian, Jewish, Muslim, etc...)

National Origin: It is illegal to discriminate based on a person's national origin (e.g., African, Chinese, German, etc...)

Gender: It is illegal to discriminate based on a person's gender (i.e., male or female), including sexual harassment

Familial Status: It is illegal to discriminate based on a person's familial status. According to HUD, familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with-- (1) a parent or another person having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Disabilities: It is illegal to discriminate if a person has a disability. According to HUD, a person with a disability (or handicap) is defined as (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance. A physical or mental impairment could include hearing or visual impairments, mental illness, or AIDS. A major life activity can include, but not limited to: walking, talking, hearing, seeing, or caring for oneself.

Non-Protected Classes: It is important to note that several groups are currently not considered a protected class under Federal Law. This includes: elderliness, sexual orientation, income status, and marital status. However, it is important to note that there may be state or local ordinances that provide protections for these classes. For example Virginia also protected elderliness (considered as any individual over 55). Some counties also prohibit discrimination based on sexual orientation.

PROHIBITED PRACTICES

According to HUD, the Fair Housing Act prohibits the following:

In the Sale and Rental of Housing

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or disability:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to a membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

In Mortgage Lending

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

Additional Prohibited Practices

It is illegal for anyone to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Additional Protections for Persons with Disabilities

If one of your clients:

- Has a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities
- Has a record of such a disability or
- Is regarded as having such a disability

The landlord **may not**:

- Refuse to let your client make reasonable modifications to their dwelling or common use areas, at your client's expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if your client agree to restore the property to its original condition when they move.)
- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.

Exemptions

There are several exemptions from the Fair Housing Act. It does not apply:

1. Any single-family house sold or rented by an owner that meets the following criteria:
 - a. The owner does not own more than three such single-family houses at any one time;
 - b. That the owner has not sold any other homes in the last 24 months;
 - c. That the house is sold or rented (A) without a real estate agent or broker and (B) without the publication of any advertisement or written notice
2. Rooms or units in dwellings containing no more than four living quarters, if the owner actually maintains and occupies one of such living quarters as his residence.
3. To a religious organization, association, or society, or any nonprofit institution or organization operated, which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting

the rental or occupancy of such lodgings to its members or from giving preference to its members.

4. Exemptions for familial status does not apply to housing for older persons, which is defined as housing that is either (1) solely occupied by, persons 62 years of age or older; or (2) intended and operated for occupancy by persons 55 years of age or older, and at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older.

review questions...

The following 3 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

1. **A Hispanic man answers a newspaper ad for an apartment but is told that it is already rented. His friend, who is white, then calls the same landlord and arranges to see the unit. This is an example of:**
 - a. Discrimination based on gender
 - b. Discrimination based on familial status
 - c. Discrimination based on race
 - d. Discrimination based on sexual orientation
2. **A bank refuses to lend money to a buyer because the house he wants to buy is in a predominantly black neighborhood. This is an example of:**
 - a. Discrimination based on national origin
 - b. Discrimination based on race
 - c. Discrimination based on gender
 - d. Discrimination based on familial status
3. **A female tenant and her two children are evicted from their apartment because the tenant refused the landlord's sexual advances. This is an example of:**
 - a. Discrimination based on religion
 - b. Discrimination based on familial status
 - c. Discrimination based on gender
 - d. Discrimination based on sexual orientation

Review Question Answers:
1. c
2. b
3. c

FILING A COMPLAINT

Complaints can be filed with HUD within one year after an alleged violation has occurred. If a licensee's client feels a violation has been made regarding Fair Housing, the client needs to provide the following information to HUD:

- Their name and address (the complainant)
- The name and address of the person their complaint is against (the respondent)
- The address or other identification to the housing involved
- A short description to the alleged violation (the event that caused your client to believe their rights were violated)
- The date(s) to the alleged violation

Complaints may be filed online via the Housing Discrimination Complaint Form. Complainants may also write HUD a letter or call the nearest HUD office.

After the complaint is filed, HUD will notify the complainant and the alleged violator and allow that person to respond to the complaint. HUD will also investigate to determine whether there is reasonable cause that a violation occurred. If HUD cannot complete its investigation within 100 days, it will notify the complainant.

HUD will try to reach an agreement with the person your client complains against, which is called a conciliation agreement. If the agreement is signed, then HUD will not take any further action. If HUD thinks that the conciliation agreements has been breached, it will recommend that the Attorney General file suit. In some cases, HUD may allow a State or local agency to investigate the complaint.

In cases where a decision needs to be made quickly, HUD may authorize the Attorney General to go to court to seek temporary or preliminary relief, if:

- Irreparable harm is likely to occur without HUD's intervention
- There is substantial evidence that a violation of the Fair Housing Act occurred

HUD Example: A builder agrees to sell a house but, after learning the buyer is black, fails to keep the agreement. The buyer files a complaint with HUD. HUD may authorize the Attorney General to go to court to prevent a sale to any other buyer until HUD investigates the complaint.

If HUD finds reasonable cause that a discrimination occurred, the case will then be heard in an administrative hearing within 120 days. The complainant or the respondent can also request the case to be heard in Federal District Court. If the case is heard at an administrative hearing, the complainant

can choose to have a HUD attorney or their own attorney represent them. The case is heard before an Administrative Law Judge (ALJ) which considers the evidence. The Judge can order the respondent to:

- To compensate you for actual damages, including humiliation, pain and suffering.
- To provide injunctive or other equitable relief, for example, to make the housing available to the complainant.
- To pay the Federal Government a civil penalty to vindicate the public interest. The maximum penalties are \$16,000 for a first violation and \$70,000 for a third violation within seven years.
- To pay reasonable attorney's fees and costs.

Enforcement

Federally, the Office of Fair Housing and Equal Opportunity (FHEO), which is part of HUD, administers the Fair Housing Act. The mission of the FHEO is "to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities by leading the nation in the enforcement, administration, development, and public understanding of federal fair housing policies and laws."

When a complaint is filed at the state level or HUD delegates the complaint to be investigated by a state board, each state may have its own fair housing board to administer the Fair Housing Act. For example, in Virginia, the Virginia Fair Housing Board administers and enforces the Fair Housing Act. The Real Estate Board is responsible for fair housing cases involving real estate licensees or their employees.

PROTECTED CLASS: DISABILITY DISCRIMINATION

Complaints regarding discrimination based on disability are some of the most common complaints filed. With this in mind, this section will provide additional detail regarding issues related to disability and fair housing.

Reasonable Accommodations versus Reasonable Modifications

According to HUD, a reasonable modification is a structural change made to the premises whereas a reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service. A person with a disability may need either a reasonable accommodation or a reasonable modification, or both, in order to have an equal opportunity to use and enjoy a dwelling, including public and common

review questions...

The following 3 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

1. Who administers the Fair Housing Act?

- a. The Executive Office
- b. Office of Fair Housing and Equal Opportunity
- c. Federal Fair Housing Enforcement Office
- d. Civil Liberties Office

2. What is the maximum penalty for a first time offense for a violation of the Fair Housing Act?

- a. \$10,000
- b. \$16,000
- c. \$50,000
- d. \$70,000

3. Who can represent a complainant for a fair housing discrimination case?

- a. a HUD attorney
- b. a Trademark Office attorney
- c. a Fair Housing Officer
- d. Administrative Law Judge

Review Question Answers:
1. b 2. b 3. a

use spaces. Generally, under the Fair Housing Act, the housing provider is responsible for the costs associated with a reasonable accommodation unless it is an undue financial and administrative burden, while the tenant, or someone acting on the tenant's behalf, is responsible for costs associated with a reasonable modification.

Reasonable Accommodations

A reasonable accommodation is a change in rules, policies, practices, or services to allow a person with a disability the equal opportunity to use and enjoy a dwelling unit or common space. Examples include service animals, parking spaces, or a transfer to a ground-floor apartment.

Reasonable accommodations are generally paid by the housing provider, as long as the request does not impose a financial or administrative burden to the property or community. It is recommended that residents put all requests in writing.

Reasonable Modifications

A reasonable modification is a structural change made to allow a person with a disability the equal opportunity to use and enjoy their dwelling unit (even if the property meets accessibility standards).

Reasonable modifications are paid by the resident making the request. HUD offers some loan programs to help with this cost. It is permissible for the landlord to require the resident to restore the unit to its original condition when the resident moves out. It is important to note, however, that if the property receives federal funds or the modification is to a public or common use area, the landlord is responsible for the cost.

HUD Example 1: A tenant, whose arthritis impairs the use of her hands and causes her substantial difficulty in using the doorknobs in her apartment, wishes to replace the doorknobs with levers. Since there is a relationship between the tenant's disability and the requested modification and the modification is reasonable, the housing provider must allow her to make the modification at the tenant's expense.

HUD Example 2: A homeowner with a mobility disability asks the condo association to permit him to change his roofing from shaker shingles to clay tiles and fiberglass shingles because he alleges that the shingles are less fireproof and put him at greater risk during a fire. There is no evidence that the shingles permitted by the homeowner's association provide inadequate fire protection and the person with the disability has not identified a nexus between his disability and the need for clay tiles and fiberglass shingles. The homeowner's association is not required to permit the homeowner's modification because the homeowner's request is not reasonable and there is no nexus between the request and the disability.

HUD Example 3: Because of a mobility disability, a new tenant with a poor credit history wants to lower the kitchen cabinets to a more accessible height. It may be reasonable for the housing provider to require payment into an interest bearing escrow account to ensure that funds are available for restoration.

Service Animals

A landlord with a no-pet policy must allow a resident with disabilities to keep a service animal as a reasonable accommodation. Under federal law, a service animal must be individually trained and must work for the benefit of the person with disabilities. These animals can be any breed, size, or weight and they do not need to be certified. The resident does not have to give details about their disability, but the landlord may request the resident provide verification if the disability is not visible or to establish a relationship between the animal and the disability. The resident must follow all pet rules and is responsible for any damages.

HUD Example: A blind applicant for rental housing wants to live in a dwelling unit with a seeing eye dog. The building has a “no pets” policy. It is a violation of the law for the owner or manager of the apartment complex to refuse to permit the applicant to live in the apartment without the seeing eye dog, because without the seeing eye dog the blind person will not have the opportunity to use and enjoy the dwelling.

In 2006, HUD issued a guidance document in response to housing providers that stated that their insurance carriers would cancel their insurance if specific types of animals that the insurance carrier deemed dangerous were allowed on the property. Because the threshold for reasonable accommodation is that it should not impose an undue financial and administrative burden on a housing provider’s operations, HUD advised that housing providers should investigate whether there are other insurance providers that can provide coverage without restriction to the type of animals. HUD also noted that if insurance agencies are restricting coverage due to animals, without exception to assistance animals, that it may violate federal civil rights laws prohibiting discrimination based on disability.

Parking Spaces

If a person with a disability asks the housing provider to designate a parking space for their use, the law would require the housing provider to designate or create the space if the three conditions for reasonable accommodation are met:

1. The resident must ask for a designated space
2. Creating or designating the space would allow the disabled resident to live in and fully enjoy the premises;
3. Creating or designating the space would not create an undue financial or administrative burden for the housing provider.

If someone with a disability asks for a parking space, the housing provider can ask for evidence of the disability (e.g., handicap tags or a letter from the doctor). If more than one person asks, the housing provider must accommodate each request.

Accessibility Requirements

For multi-family homes built after 1991, the following accessibility design and construction requirements apply:

- Public Use and Common Areas must be accessible
- All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- Accessible route into and through the dwelling;

- Light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations;
- There are reinforcements in the bathroom walls to allow later installation of grab bars;
- There are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space

PROTECTED CLASS: RELIGIOUS DISCRIMINATION IN HOUSING

Examples of religious discrimination include people harassing neighbors because of religion. In *United States versus Altmayer*, a man was ordered to pay \$15,000 in damages because he harassed his neighbors and children because of their Jewish religion. A similar consent decree was reached in *United States versus Schmock* in which a Sikh family was harassed by neighbors.

An example of a religious restriction that does not constitute a violation is if the restriction applies regardless of religion. For example, a resident of a condominium wanted to affix a religious symbol to his front door but was denied the ability to do so. The courts found that this was not a violation of the Fair Housing Act because the condominium had a policy of no objects at all on the front door of any unit.

Real estate agents should note that religion organizations, however, are exempt from the Fair Housing Act and may restrict housing to members of that particular organization, as long as the religion does not discriminate in its membership policies.

PROTECTED CLASS: GENDER AND SEXUAL HARASSMENT DISCRIMINATION

The Courts have recognized that sexual harassment violates the Fair housing Act because it is a discrimination against sex. The Courts have recognized two forms of sexual harassment:

- Quid pro quo sexual harassment (i.e., when a housing provider will exchange services or transactions if the victim performs sexual conduct)
- Hostile environment sexual harassment (i.e., unwelcome suggestive or inappropriate language, touching, gestures, demands or conditions made towards or about another person that create an intimidating environment)

In particular, women who are poor with limited housing option often must tolerate humiliation and sexual harassment or risk having their families removed from their homes.

review questions...

The following 4 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

1. **Under which conditions would a reasonable accommodation be denied?**
 - a. If it imposes a financial burden
 - b. If it imposes an administrative burden
 - c. All of the above
 - d. None of the above
2. **What is a reasonable modification?**
 - a. A structural change made to allow a person with a disability the equal opportunity to use and enjoy their dwelling unit.
 - b. A change in rules, policies, practices, or services to allow a person with a disability the equal opportunity to use and enjoy a dwelling unit or common space.
 - c. A cosmetic change made to allow a person with a disability the equal opportunity to use and enjoy their dwelling unit.
 - d. A legal change made to allow a person with a disability the equal opportunity to use and enjoy their dwelling unit.
3. **What is the difference between a reasonable accommodation and reasonable modification?**
 - a. A reasonable modification is a change in policy or service whereas a reasonable accommodation is a structural change to the premises.
 - b. A reasonable accommodation is a change in policy or service whereas a reasonable modification is a structural change to the premises.
 - c. A reasonable accommodation is a change in policy or service whereas a reasonable modification is an irreversible change to the premises.
 - d. A reasonable modification is a change in local ordinances whereas a reasonable accommodation is a structural change to the premises.
4. **Which of the following is an accessibility requirement for bathrooms in multifamily housing?**
 - a. The bathtub must allow wheelchair access
 - b. The reinforcements in the bathroom walls allow for later installation of grab bars
 - c. The light switch must have an automatic turn on and off
 - d. There must be a grab bar installed next to the sink, toilet, and bathtub

Review Question Answers:
1. c
2. a
3. b
4. b

Note that if a property owner or property manager knows that an employee or agent is sexually harassing applicants, tenants or residents, they may be held liable for any actions their employees take. It is important to stop the behavior once the property owner or property manager is made aware of it. For example, if a maintenance worker enters a resident’s home to make a repair and sexually harasses the resident, the management company may be held liable for the maintenance worker’s actions.

Furthermore, if a property manager or owner knows that tenants are sexually harassing other tenants, they may be held liable if they did not take any action to stop the behavior. This may include evicting the harasser.

To prevent sexual harassment, HUD encourages property owners to do the following:

- Adopt policies against sexual harassment;
- Develop processes for applicants and tenants to report sexual harassment;
- Establish sanctions for employees and contractors who engage in sexual harassment;
- Educate employees, contractors, residents, and applicants about these policies and the Fair Housing Act; and
- Enforce these policies against employees, residents, and contractors who engage in sexual harassment.

In a recent case, an almost \$8 million settlement was agreed between victims of a sex for repairs scandal from the Baltimore Housing Authority. The women were forced to choose between giving into demands for sex from maintenance workers or wait to get needed repairs. By not getting these repairs, the women were exposed to unsafe living conditions, such as mold, lack of heat, or faulty electrical wiring. This case is one of the largest in sexual harassment settlements paid under the Fair Housing Act.

PROTECTED CLASS: RACE DISCRIMINATION IN HOME BUYING

NFHA conducted a series of fair housing tests on a real estate team in Mississippi. The test revealed that the agent discriminated on the basis of race. During the roughly year-long investigation, white and black testers posed as home buyers and contacted the company to view homes in Jackson, Mississippi. The testers were similarly-qualified and had similar housing preferences.

According to the NFHA, the agents steered the white home seekers away from interracial neighborhoods in Jackson, which is majority African American, and into majority white areas such as Pearl, Ridgeland, Richland, Clinton, Madison County, and Rankin County. Conversely, the African American testers who

inquired about properties in the Jackson area were often never called back and were generally provided very limited information.

During one test, both the white and black testers requested information about the same foreclosed property located in Jackson, Mississippi. The white tester was told that the house was under contract and was offered information about other properties. An agent showed the white tester multiple homes, mostly located in the predominantly white areas of Pearl and Richland, Mississippi. In contrast, the African American tester was not able to speak with an agent after leaving several messages at the agency's primary contact number and ultimately was not afforded the opportunity to see homes in the area.

PROTECTED CLASS: FAMILIAL STATUS DISCRIMINATION

In this section, we will discuss two specific cases regarding discrimination against familial status. First, since children under six are particularly susceptible to lead based paint poisoning, this section covers the interaction between lead based paint hazard control activities and the Fair Housing Act. Second, we will discuss the use of occupancy limits as a reason to deny housing to families.

Lead Based Paint and the Fair Housing Act

If a housing unit has not undergone lead hazard control treatments, it can still be made available to families with children. However, the housing provider must advise the family of the condition of the unit. It would be a violation of the Fair Housing Act to terminate a tenant if the family requests the lead based paint to be controlled. In these cases, the housing provider may offer transfers to another unit where lead-based paint hazards have been controlled.

If a housing provider has units available that have undergone lead based paint control, they may specifically advertise these units to families. HUD recommends these units be scattered across the community and not in just one location.

Occupancy Policies and the Fair Housing Act

In 1998 HUD issued a policy statement regarding occupancy standards. This is also known as the Keating Memo. The memo was issued because there was no guidance regarding occupancy restrictions. HUD found that there were many complaints regarding discrimination against familial status while the landlord was claiming there was too many occupants living in the unit for it to be safe. It is important to note that, while the memo indicated that two people per bedroom was a reasonable requirement, there

must be additional factors that need to be taken into account such as the size of the bedroom, the age of the children, the configuration of the unit and other physical limitations of the house (e.g., sewer capacity). HUD provided the following examples:

HUD Example 1 (Size of Bedrooms and Unit)

Consider two theoretical situations in which a housing provider refused to permit a family of five to rent a two-bedroom dwelling based on a "two people per bedroom" policy. In the first, the complainants are a family of five who applied to rent an apartment with two large bedrooms and spacious living areas. In the second, the complainants are a family of five who applied to rent a mobile home space on which they planned to live in a small two-bedroom mobile home. Depending on the other facts, issuance of a charge might be warranted in the first situation, but not in the second. The size of the bedrooms also can be a factor suggesting that a determination of no reasonable cause is appropriate. For example, if a mobile home is advertised as a "two-bedroom" home, but one bedroom is extremely small, depending on all the facts, it could be reasonable for the park manager to limit occupancy of the home to two people.

HUD Example 2 (Age of children)

The following hypotheticals involving two housing providers who refused to permit three people to share a bedroom illustrate this principle. In the first, the complainants are two adult parents who applied to rent a one-bedroom apartment with their infant child, and both the bedroom and the apartment were large. In the second, the complainants are a family of two adult parents and one teenager who applied to rent a one-bedroom apartment. Depending on the other facts, issuance of a charge might be warranted in the first hypothetical, but not in the second.

HUD Example 3 (Configuration of unit)

The following imaginary situations illustrate special circumstances involving unit configuration. Two condominium associations each reject a purchase by a family of two adults and three children based on a rule limiting sales to buyers who satisfy a "two people per bedroom" occupancy policy. The first association manages a building in which the family of the five sought to purchase a unit consisting of two bedrooms plus a den or study. The second manages a building in which the family of five sought to purchase a two-bedroom unit which did not have a study or den. Depending on the other facts, a charge might be warranted in the first situation, but not in the second.

Other relevant factors in determining if a violation of the Fair Housing Act occurred would also include

whether the housing provider: (1) made discriminatory statements; (2) adopted discriminatory rules governing the use of common facilities; (3) taken other steps to discourage families with children from living in its housing; or (4) enforced its occupancy policies only against families with children.

In essence there is no clear guidelines as to whether the denial of housing based on occupancy limits can be considered a violation of the Fair Housing Act. In one case, HUD charged a Chicago property owner with violating the Fair Housing Act when it refused to rent an apartment to a family based on the fact that the family (2 adults and 1 child) would exceed the occupancy limit of 2 person per bedroom. HUD found that because the owners enforced their occupancy policy without regard to the size of the unit, bedrooms or age of the residents.

Therefore, many housing guidelines have been issued regarding the 2+1 rule of 2 people per bedroom plus one additional person in the unit. This rule is not as restrictive, however, it is important to note that housing providers still must take into account the other factors outlined by HUD (e.g., size of bedrooms, age of children, etc) before refusing to rent to a family.

PROTECTED CLASS: NATIONAL ORIGIN DISCRIMINATION

National origin discrimination is different treatment in housing because of a person's ancestry, ethnicity, birthplace, culture, or language. Examples of potential national origin discrimination include:

Refusing to rent to persons whose primary language is other than English;

Offering different rent rates based on ethnicity; steering prospective buyers or renters to or away from certain neighborhoods because of their ancestry; and

Failing to provide the same level of service or housing amenities because a tenant was born in another country.

IMMIGRATION STATUS AND HOUSING DISCRIMINATION

HUD has issued guidance that every person in the United States is protected by the Fair Housing Act. A person's immigration status does not affect his or her federal fair housing rights or responsibilities. The Office of Fair Housing and Equal Opportunity (FHEO) does not ask for immigration status when people file complaints. It is also illegal to intimidate or threaten a person's right to fair housing by threatening to call US Immigration and Customs Enforcement (ICE) if a person reports housing discrimination to HUD. According to ICE, it does not want to deter victims from reporting crimes because of immigration status

and encourages ICE officers and agents to exercise appropriate discretion on a case-by-case basis.

Local laws may provide fewer or additional fair housing protections, so it is important to check with your State and local jurisdictions.

ADDITIONAL PROTECTIONS: LGBT AND THE FAIR HOUSING ACT

In June 2013, the first large-scale study was released on assessing housing discrimination against same-sex couples. The study was conducted based on over 6,000 email correspondences in 50 metropolitan markets. For each test, two emails were sent to the housing provider with the only difference being an indication of the sexual orientation of the couple. The study found that same-sex couples received significantly fewer responses to the emails than heterosexual couples.

While the Fair Housing Act does not specifically indicate sexual orientation and gender identity as a protected class, there may be instances where an LGBT person may still be covered by the Fair Housing Act. It is important to note that HIV/AIDS (which disproportionately affects the LGBT community) is protected under the Fair Housing Act as a disability.

In addition, housing providers and lenders insured by FHA may be subject to HUD requirements. HUD regulations to require equal access to LGBT include:

- Housing that is funded by HUD or insured by FHA should be made available without regard to actual or perceived sexual orientation, gender identity or marital status;
- The terms "family" and "household", when used in HUD programs, include persons regardless of actual or perceived sexual orientation, gender identity or marital status;
- Owners and operators of HUD funded housing are prohibited from asking about an applicant's sexual orientation or gender identity for the purposes of determining eligibility or making housing available;
- FHA lenders are prohibited from taking into account actual or perceived sexual orientation or gender identity to determine adequacy of the potential borrower's income.

HUD provides the following examples of violations of the Fair Housing Act with respect to the LGBT community:

HUD Example 1: A gay man is evicted because his landlord believes he will infect other tenants with HIV/AIDS. That situation may constitute illegal disability discrimination under the Fair Housing Act because the man is perceived to have a disability, HIV/AIDS.

HUD Example 2: A property manager refuses to

rent an apartment to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex under the Fair Housing Act.

HUD Example 3: An underwriter for an FHA insured loan is reviewing an application where two male incomes are being used as the basis for the applicants' credit worthiness. The underwriter assumes the applicants are a gay couple and, as a result, denies the application despite the applicants' credentials. This scenario may violate HUD regulations which prohibit FHA-insured lenders from taking actual or perceived sexual orientation into consideration in determining adequacy of an applicant's income.

In addition, State and local jurisdictions may protect sexual orientation and gender orientation.

ADVERTISING FOR LICENSEES

There are many rules regarding advertising property without discriminating. In general, ads should describe the property, not the tenant or potential buyer. Real estate agents should avoid words that express a preference based on a protected class (e.g., "perfect for a family"). The use of human models in sales or brochures should also reflect the diversity of the community.

Equal Opportunity Logo

The Equal Opportunity Logo should also appear on all advertisements. While the Fair Housing Act itself does not require the Equal Opportunity Logo to be displayed, using the logo shows that the licensee is committed to complying with fair housing practice. According to HUD guidelines, all advertising of residential real estate for sale or rent should contain the logo or statement. The logo should be at least equal to the largest of any other logotypes or approximately 3-5% of the size of the advertisement.



The logo can be found on HUD's website.

Language and Wording

Real Estate Agents should check with their local MLS to see if they have a word or phrase list regarding what is acceptable to advertise on the MLS. Following is a chart indicating acceptable versus questionable word choices when advertising.

Protected Class (or Classes) Involved	Neutral Words	Questionable Words
Handicap (disability)	Fourth-floor walk-up; Jogging trails	Ideal for active, healthy person; Not wheelchair accessible; Able-bodied
Race, Color, National Origin	Distinguished community; Estate homes; Secluded, wooded setting	Private community; Integrated neighborhood; Condominium ownership, subject to board approval
Familial status, Sex	Quiet streets; Qualified senior housing; Kids welcome; Master bedroom	All-adult living; Singles preferred; Kids OK
Religion	Places of worship nearby	Near church, synagogue, mosque

Source: Realtor Mag®

Examples of Advertising Violations

Below are examples of advertising violations:

- A property manager saying to a potential renter that "only real Americans" live in the apartment complex
- Online or print ads with the following phrases:
 - "No kids allowed"
 - "Christian atmosphere"
 - "Prefer clean Christian"
 - "Ideal for mature couple or single with no children"

NAR Code of Ethics Article 10 Case Study - "Choose Your Neighbor" Letters

A case study from NAR's Code of Ethics highlights the use of "Choose Your Neighbor" letters and the circumstances surrounding an acceptable and unacceptable use with respect to fair housing.

In one case, an agent had a listing in a subdivision where the seller told him that he wanted the sale to be handled quietly, with finding purchasers that would "fit into the neighborhood - people with the same socioeconomic background" as the other residents of the neighborhood. The agent subsequently mailed a letter to all of the neighbors inviting them to "... to play a part in the decision of who your next neighbor will be. If you know of someone who you would like to live in the neighborhood, please let them know of the availability of this home, or call me and I will be happy

review questions...

The following 5 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

- What can property owners do to prevent sexual harassment?**
 - Adopt policies against sexual harassment
 - Develop processes for tenants to report sexual harassment
 - Educate employees on the Fair Housing Act
 - All of the above
- Which of the following is an example of race discrimination?**
 - Telling white and black male rental applicants that a unit has already been rented
 - Telling a white male that a unit is rented, but telling a white female that it has not been rented
 - Telling a white male that a unit is rented, but telling a black male that it has not been rented
 - Telling a black male that a unit is rented, but telling a black female that it has not been rented
- In 1998 HUD issued a policy statement regarding occupancy standards. What is another name for this policy statement?**
 - Occupant Policy Statement of 1998
 - Living Conditions Design Standard
 - Keating Memo
 - Fair Housing Act Amendment of 1998
- What general guideline do many property owners use today regarding occupancy limits?**
 - 1 person per bedroom
 - 2 people per bedroom
 - 2 people per bedroom plus 1 per unit
 - 2 people per bedroom plus 2 per unit
- Which of the following best describes an instance where an LGBT person would be protected under another protected class?**
 - A LGBT person that has HIV
 - A LGBT person that has low income
 - A LGBT person that has poor credit
 - None of above can be protected

Review Question Answers:
1. d 2. c 3. c 4. c 5. a

to contact them and arrange a private showing." The Realtor® did not put the property on the MLS, did not have a sign in the yard, and did not do any other marketing for the property. NAR found this was a violation of fair housing practices because the Realtor® did not market the property without regard to race, color, religion, sex, handicap, familial status, country of national origin, sexual orientation, or gender identity, as expressed in Article 10.

In another case, an agent had a listing where he also sent out a "Choose Your Neighbor" letter for a new listing. The agent also advertised the property in several newspapers, Open House flyers, and on the MLS. It was his experience that current residents of a neighborhood often have friends or relatives that would like to live in the same neighborhood and it made sense to contact the neighbors as part of his marketing strategy. Since the "Choose Your Neighbor" letter was only one technique employed at marketing the listing, NAR found that this was not a violation of Article 10.

Source: NAR Code of Ethics and Arbitration Manual

HUD Guidance on Real Estate Advertising

In 1995, HUD released a guidance document regarding advertising and the Fair Housing Act. Below is a portion of the guidance regarding real estate advertising:

1. Race, color, national origin. Real estate advertisements should state no discriminatory preference or limitation on account of race, color, or national origin. Use of words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms (i.e., **white family home, no Irish**) will create liability under this section. However, advertisements which are facially neutral will not create liability. Thus, complaints over use of phrases such as **master bedroom, rare find, or desirable neighborhood** should not be filed.

2. Religion. Advertisements should not contain an explicit preference, limitation or discrimination on account of religion (i.e., **no Jews, Christian home**). Advertisements which use the legal name of an entity which contains a religious reference (for example, **Roselawn Catholic Home**), or those which contain a religious symbol, (such as **a cross**), standing alone, may indicate a religious preference. However, if such an advertisement includes a disclaimer (such as the statement "This Home does not discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status") it will not violate the Act. Advertisements containing descriptions of properties (**apartment complex with chapel**), or services (**kosher meals available**) do not on their face state a preference for persons likely to make use of those

facilities, and are not violations of the Act. The use of secularized terms or symbols relating to religious holidays such as **Santa Claus, Easter Bunny or St. Valentine's Day** images, or phrases such as **"Merry Christmas", "Happy Easter"**, or the like does not constitute a violation of the Act.

3. **Sex.** Advertisements for single family dwellings or separate units in a multi-family dwelling should contain no explicit preference, limitation or discrimination based on sex. Use of the term **master bedroom** does not constitute a violation of either the sex discrimination provisions or the race discrimination provisions. Terms such as **"mother-in-law suite"** and **"bachelor apartment"** are commonly used as physical descriptions of housing units and do not violate the Act.

4. **Handicap.** Real estate advertisements should not contain explicit exclusions, limitations, or other indications of discrimination based on handicap (i.e., **no wheelchairs**). Advertisements containing descriptions of properties (**great view, fourth-floor walk-up, walk-in closets**), services or facilities (**jogging trails**), or neighborhoods (**walk to bus-stop**) do not violate the Act. Advertisements describing the conduct required of residents (**"non-smoking", "sober"**) do not violate the Act. Advertisements containing descriptions of accessibility features are lawful (**wheelchair ramp**).

5. **Familial status.** Advertisements may not state an explicit preference, limitation or discrimination based on familial status. Advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples or singles. Advertisements describing the properties (**two bedroom, cozy, family room**), services and facilities (no bicycles allowed) or neighborhoods (**quiet streets**) are not facially discriminatory and do not violate the Act.

FAIR HOUSING RESOURCES FOR LICENSEES

April is Fair Housing Month

Fair Housing Month is celebrated each year in April to commemorate the passage of the Fair Housing Act in 1968. Licensees should check with their broker and local real estate association for any special events or classes regarding fair housing.

At Home with Diversity® (AHWD)

The National Association of Realtors® has a certification course which has a major component on fair housing. More information can be found at: <http://www.realtor.org/designations-and-certifications/at-home-with-diversity>

review questions...

The following 4 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

- Which of the following may be considered questionable language when advertising?
 - 3 bed, 2 bath home - no kids allowed
 - 1 bedroom condo half a mile from restaurants
 - Land available - 3 acres in mountain setting
 - 2 bedroom condo next to grocery store
- Which of the following phrases are OK by HUD?
 - Merry Christmas
 - Christian Home
 - No Jews
 - White Family Home
- Which of the following phrases would constitute discrimination based on sex?
 - Master bedroom
 - Mother in law suite
 - Bachelor apartment
 - None of the above
- Which of the following phrases would constitute discrimination based on Religion?
 - No Jews
 - Christian Home
 - All of the above
 - None of the above

Review Question Answers:

1. a 2. a 3. d 4. c

National Association of Realtors® - Realtor Action Center®

The National Association of Realtors® also has a listing of many resources to find out more information about fair housing, including NAR's Field Guide to Fair Housing: <http://www.realtoractioncenter.com/for-associations/fair-housing/?referrer=https://www.google.com/>

National Fair Housing Alliance

The National Fair Housing Alliance was founded in 1988 and headquartered in Washington DC. It is a consortium of more than 220 private, nonprofit fair housing organizations, state and local civil rights agencies, and individuals throughout the United States. Through comprehensive education, advocacy and

enforcement programs, NFHA protects and promotes equal access to apartments, houses, mortgage loans and insurance policies for all residents of the nation. NFHA recognizes the importance of home as a component of the American dream and envisions a country free of housing discrimination where inclusive, integrated and barrier-free neighborhoods are the norm. More information on NFHA can be found at: <http://www.nationalfairhousing.org/>

NOTABLE FAIR HOUSING CASES

This section provides an overview of recent fair housing cases.

Virginia Complex Settles Accessibility Case for \$600k (November 2015)

The National Fair Housing Alliance (NFHA) and Housing Opportunities Made Equal of Virginia (HOME) settled a housing discrimination case with the owners, developers, and others involved in the design and construction of a new 151 unit multi-family housing complex in Richmond VA. The agreement requires the complex to be retrofitted so that it is accessible for people with disabilities. The defendants also agreed to pay \$600,000 in damages, costs, and attorney's fees.

Takeaways: It is important to realize that there can be major fines for not complying with design and construction requirements in new housing developments and that all members of a project team can be held accountable.

Landlord Settles Discrimination Case for \$25,000

A landlord in Danville, VA had to pay \$25,000 for discriminating against African-American potential tenants. He advertised one of his units for lease. When an African-American woman called, he told her it was already rented. However, when a white applicant called about the same unit, he told her it was still available. In addition, he steered the African-American woman towards other properties not yet available since he was cleaning them out because "a bunch of damn n***** were living in 'em."

The Circuit Court for the City of Danville found that he violated two counts of the Federal Fair Housing Act. First for refusing "to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin." And, second for making a statement "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 any intention to make any such preference, limitation, or discrimination."

Takeaways: Real estate agents should not give different answers to potential renters or buyers based on their race. Agents should be truthful about the status of a property to all potential renters or buyers.

Virginia Real Estate Development Company Settles For Undisclosed Sum

The National Fair Housing Alliance (NFHA) and Paralyzed Veterans of America (PVA) settled a housing discrimination lawsuit with a Virginia Real Estate Developer. The developer was required to retrofit nine apartment complexes within three years' time and pay an undisclosed sum to cover costs and attorney fees for NFHA and PVA. The settlement indicated that the developed discriminated against people with disabilities since 2002 by designing and constructing multifamily dwellings that were not accessible. Some of the retrofits include: changing entry doors with high thresholds, correcting dangerously steep sidewalk slopes, providing adequate accessible parking, and ensuring kitchens and bathrooms have enough space for wheelchair users.

Takeaways: Landlords should always make sure their buildings are in compliance with the American Disabilities Act. They should plan for required retrofits to the common areas of their facilities.

Families Denied Loans While on Maternity Leave Settled Discrimination Complaint: Conciliation Agreement between HUD and Wells Fargo Bank, et al.

In October 2014, Wells Fargo Home Mortgage agreed to pay \$5 million as part of a settlement resolving claims that it discriminated against pregnant borrowers and women on maternity leave. Under the terms of a conciliation agreement, Wells Fargo paid \$160,000 to six families from across the country—including Arizona, California, Nevada, Nebraska, and Texas—who filed complaints with the agency. The complaints included allegations that Wells Fargo discriminated by making loans unavailable based on sex and familial status, by forcing women applicants to sacrifice their maternity leave and return to work prior to closing on their loan, and by making discriminatory statements to and against women who were pregnant or who had recently given birth. Under the agreement, Wells Fargo also deposited \$3.5 million into a compensation fund to pay monetary claims filed by other individuals. In addition, Wells Fargo established new underwriting guidelines that comply with the Fair Housing Act and agreed to provide its employees with fair housing training. Source: NHFA 2015 Housing Trends Report

Takeaways: Lenders should be careful not to discriminate against pregnant women or make additional requirements for pregnant women. Real

estate agents should be aware of this behavior, in case their client may be subject to a fair housing violation by a lender.

Bank Settled “Redlining” Suit Alleging It Refused to Make Prime Mortgage Loans in Minority Neighborhoods: City of Providence v. Santander Bank (D.R.I.)

In May 2014, the City of Providence filed a lending discrimination lawsuit against Santander Bank, alleging the bank engaged in a pattern or practice of illegal redlining by refusing to make prime mortgage loans available in neighborhoods of color in Providence, Rhode Island. The suit alleged that since 2009, Santander’s mortgage applications and originations in communities of color declined by 60% while increasing in White communities. In November 2014, Santander agreed to provide \$1.3 million in grants to three Providence nonprofit organizations, including Rhode Island Local Initiatives Support Corporation, AS220, and the Providence Community Library. Following the settlement, the bank stated it would provide at least \$24 million in home loans for low- and moderate-income city residents over the next three years. Source: NHFA 2015 Housing Trends Report

Takeaways: Lenders should be careful not to discriminate against making loans in certain neighborhoods of color. Real estate agents should be aware of this practice in case he or she encounters it with one of their clients.

Jury rules in favor of gay couple in sexual harassment case in Council Bluffs, Iowa

In June 2013, a jury in Council Bluffs, Iowa found in favor of a gay male couple alleging they were subjected to repeated harassment based on their sexual orientation. The apartment complex’s on-site maintenance technician made derogatory statements and offensive gestures on a daily basis for two months while the couple was living there. The couple made complaints to the on-site manager, but nothing was done to stop the harassment. Finally, the couple could no longer take the hostile environment and moved out of the apartment complex. The jury found in favor of the gay couple and the management company was required to pay \$72,000 to the couple and also change its tenant complaint process and train all staff to understand their obligations regarding civil rights laws.

Takeaways: Companies with employees (e.g., property management companies) should be aware that they are responsible for their employees’ actions. Companies with employees should establish a policy regarding harassment and training to avoid harassment.

Summary

This course provides a comprehensive look at the Fair Housing Act. First, we provided a brief history of Fair Housing and its related laws. We then described the classes protected under the Fair Housing Act with an in-depth look at several specific topics affecting fair housing including: the American Disabilities Act, sexual harassment, immigration status, occupancy limits, and LGBT discrimination. Next, we discussed the regulations regarding advertising and fair housing and additional resources available to real estate agents. Finally, we concluded with several case studies and rulings with respect to fair housing. While there is still more important work to be done in fair housing, real estate agents have the responsibility to treat all persons fairly and also identify instances where their clients are not treated fairly and voice their concerns.

review questions...

The following 6 questions will be a review of the content from this section.

These questions will NOT be graded.

Answers to the review questions can be found below.

1. Which month is Fair Housing Month?

- a. January
- b. April
- c. August
- d. November

2. Which National Association of Realtors® certification course has a major component on Fair Housing?

- a. At Home with Diversity
- b. Fair Housing for All
- c. Certified Fair Housing Advisor
- d. Fair Housing Real Estate Specialist

3. Who are members of the National Fair Housing Alliance?

- a. Nonprofit fair housing organizations only
- b. State governments only
- c. Private organizations only
- d. Mixture of private, non-profit, and state and local agencies, and individuals

4. A lender meets a gay couple and tells them that they can’t qualify for an FHA mortgage. Which of the following situations indicate this could be a housing discrimination case?

- a. The lender also meets with a heterosexual couple with the same income and credit scores and rejects their application also
- b. The lending company has a strict equal credit opportunity policy in place with enforcement protocols
- c. The lender also meets with a heterosexual couple with the same income and credit scores and approves their application
- d. None of the above since gay couples are not a protected class

5. The local condo association asks their residents to amend the current regulations so that no Christmas decorations are allowed in the hallway. Which of the following situations indicate this could be a housing discrimination case?

- a. The rule states that any type of decorations are not allowed
- b. The rule states that only Christmas decorations are prohibited, but other religious decorations are OK
- c. Any rule is OK as long as it is approved by 51% of the condo owners
- d. The rule states that any decoration must first be approved by the decoration committee

6. Which of the following situations is not a case of discrimination based on familial status?

- a. A real estate agent refuses to show an upscale to condo to a family because they have children
- b. A lender denies a loan application because he found out the applicant is 3 months pregnant
- c. A landlord requires two months security deposit for a unit with children instead of only one month security deposit for a unit without children
- d. A real estate agent only shows single family homes to a couple with 2 kids because the family is specifically requested the agent show them homes in a particular neighborhood

Review Question Answers: 1.b 2.a 3.d 4.c 5.b 6.d