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REAL ESTATE

Practice Fair Housing Year Round

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April is recognized as being Fair Housing Month. To observe and honor it, the Greater Lansing Association of REALTORS® ran a series of fair housing articles throughout the month. Furthermore, a new fair housing resource section of the website www.lansing-realestate.com was launched. Please read on for an overview of some of the important topics covered.

The Fair Housing Act and Protected Classes

The Fair Housing Act of 1968, which was officially signed into law by President Lyndon B. Johnson, extended the basic discrimination protections within the 1964 Civil Rights Act into the housing market. It explicitly prohibits discrimination in the purchase, sale, rental, or financing of housing — private or public — based on race, color, national origin, religion, or sex. The act was amended in 1988 to also include familial status and disability.

In the past, discrimination based on sex referred to biological sex. Sexual orientation and gender identity were not explicitly included. This February, the United States Department of Housing and Urban Development (HUD) announced it will “administer and enforce the Fair Housing Act to prohibit discrimination on the basis of sexual orientation and gender identity.” This move effectively expands civil rights protections to LGBTQ individuals seeking housing and housing-related services.

“The National Association of REALTORS® (NAR) has long championed LGBTQ rights in the housing market, first calling for expanded protections in 2011,” said NAR President Charlie Oppler, a REALTOR® from Franklin Lakes, N.J., and the CEO of Prominent Properties Sotheby’s International Realty. “There are few greater human needs than housing, and to exclude LGBTQ individuals from the protections afforded to other Americans is cruel. This is a just and historic decision by HUD.”

Liability Letters

Real estate is an emotional business, and a buyer letter — referred to in the industry as a buyer “love letter” — can definitely appeal to a seller’s emotional side.

NAR explains that buyer “love letters” can “actually pose fair housing risks because they often contain personal information and reveal characteristics of the buyer, such as race, religion, or familial status, which could then be used, knowingly or through unconscious bias, as an unlawful basis for a seller’s decision to accept or reject an offer.”

As an example, NAR says, “consider where a potential buyer writes to the seller that they can picture their children running down the stairs on Christmas morning for years to come in the house.” The association explains, “this statement not only reveals the potential buyer’s familial status, but also their religion, both of which are protected characteristics under fair housing laws.”

If a seller accepts or rejects the offer based on that information alone, it would be a violation of the Fair Housing Act. And a seller who discriminates against a buyer — knowingly or unknowingly — could face financial penalties if the buyer files a successful fair housing complaint or lawsuit.

Practicing Fair Housing as a Landlord

Owning rental properties can be a great way to generate passive income, but it’s also a big responsibility. There are many rules and regulations to follow, and probably none are more important than federal, state, and local fair housing laws.

While there are many regulations, codes, and laws that landlords must follow, there are few areas that tend to create most fair housing issues — advertising and “steering,” application screening, occupancy guidelines, and reasonable accommodations and modifications.

Advertising and Steering

When advertising a rental unit, landlords should only describe property amenities or features, not what they are looking for in a tenant. The Rental Property Owners Association (RPOA) says to avoid advertising descriptions such as “bachelor pad,” “just right for two people,” or “walking distance to St. Robert’s church,” adding that, “courts have ruled that such descriptions are discriminatory and thus clear violations of fair housing laws.”

And, when showing properties, landlords must avoid “steering,” which happens when landlords guide prospective renters to or away from a property based on their protected

class. For instance, landlords should avoid saying things like, “You would like this particular apartment or home because it’s quiet with few children around.”

Screening Applicants

As a landlord, your screening process must be objective, and there should be a written rental policy detailing the criteria to live in your property. The policy should include occupancy guidelines, availability policy, and rental criteria (employment history, income, credit standards, etc.). Application questions must not ask for any protected class information and landlords should keep good records of each applicant or inquiry.

Occupancy Guidelines

In 1996, Congress enacted a law based upon a 1991 memo from HUD, which stated that a 2-person-per-bedroom occupancy standard was acceptable in most situations. However, this number can change depending on how the property is laid out and how large or small the living spaces or bedrooms are. The RPOA says, “looking to local housing codes is a more practical way of setting limits.”

Accommodations and Modifications

According to the National Fair Housing Alliance (NFHA), in 2019, 58.9% of fair housing complaints were on the basis of disability. Under fair housing laws, landlords are required to make reasonable accommodations or modifications for individuals with a disability.

HUD says a reasonable accommodation is, “a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations.”

How to Report A Fair Housing Violation

There are several avenues for filing a complaint. At the federal level, you can contact HUD at 800-669-9777 or find more information at www.HUD.gov/FairHousing. At the state level, there is help through the Michigan Department of Civil Rights, which can be reached at 800-482-3604 or www.Michigan.gov/MDCR.

For those in the Greater Lansing area, the Fair Housing Center of Southeast & Mid-Michigan is a great local resource. According to its website, the center is a private nonprofit “dedicated to investigating complaints of illegal housing discrimination based on federal, state, and local

fair housing laws, as well as resolving reasonable accommodation and modification requests for people with disabilities.”

The FHC “provides investigative services, testing, advice, advocacy, conciliation, attorney referral, and community education in Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee, Livingston, Monroe, Shiawassee, and Washtenaw Counties.” And the organization says all services are offered free of charge.

If you believe you’ve been the victim of housing discrimination or would like to run a situation by the FHC, you can reach them at 877-979-3247 or send an email to complaints@fhcmichigan.org. Please include a brief description or summary of the incident along with your name and contact information. An FHC staff member will reach out to you for more information and all allegations or complaints will be kept confidential.

In addition to reaching out to the FHC, it is encouraged to file an ethical complaint with the Greater Lansing Association of REALTORS® because the fair housing violation may also be a Code of Ethics violation.

For more information on buying and selling real estate or to find local professionals, visit www.lansing-realestate.com.