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Fair Housing Alert: Using Human Models in Your Ads

Real estate and mortgage brokers who employ models to advertise properties for sale or loan programs need to be aware of and in conformance with anti-discriminatory laws governing such use.

The Fair Housing Act, as most brokers should know, makes it unlawful to "discriminate in the sale, rental and financing of housing because of race, color, religion, sex, handicap, familial status or national origin."

But what many do not know is that the same Fair Housing Act also says it is unlawful "to make, print or publish any notice, statement, or advertisement" for the sale or rental of a dwelling that indicates any preference, limitation or discrimination or even intention "because of race, color, religion, sex, handicap, familial status or national origin."

As applied to advertising, the prohibitions of the law mean that if you plan to feature models in a staged photo of a home or other residential property for sale or in advertising a real estate loan program, the models can't be all white or all African-American or Asian. Bottom line -- brokers who favor the use of photos in advertising aimed at home buyers or borrowers would be well advised to think diversity and balance in the human models selected.

As you can see by the prohibitions enumerated above, your concern should go beyond racial appearances. Care also must be exercised to portray a balance of single adults, families and old as well as young buyers.

Examples of photos that could be judged unlawful would be an advertisement that featured a picture of only African-American families; or only Caucasian families. The implied suggestion of such advertising is that buyers representing other races aren't welcome.

A gray area, but one that will at the very least raise concern, is an advertising campaign aimed at media that cater to a specific racial or national origin segment of the population -- or to one particular sex or persons without children. Such selective advertising may involve the use of human models or members of only one sex, or adults only, to the exclusion of children, in photos, displays or drawings to indicate buyer preferences.

When discussing the subject of photography in real estate advertising, I have been asked whether there are any restrictions on a broker who uses his own photo on a business card or a mailing piece. The answer -- there is no restriction. Obviously, a picture of a broker

wearing a Nazi uniform or an Indian headdress (unless he or she is a Native American) would be inappropriate.

Summing up on a positive note, brokers who use human models in advertising a property for sale will steer clear of unlawful practices simply by ensuring the photos convey a clear message that the property and its financing are available to all buyers regardless of racial, gender, nationality, religion, age and marital status.

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