



## FAIR HOUSING & ADVERTISING

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I recently reread a 2009 report produced by the National Fair Housing Alliance (NFHA) on how internet housing ads perpetuate discrimination (<http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=zgbukJP2rMM%3d&tabid=2510&mid=8347>).

As we can attest to from our own office's investigations, illegal ads are prolific online, decades after Congress and the Fair Housing Act<sup>1</sup> made them illegal. Following are some highlights from the report.

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There is no disagreement that landlords, real estate agents, and others who create and place these discriminatory ads are legally liable for violating the Fair Housing Act. In passing the Fair Housing Act in 1968, Congress wanted to hold publishers responsible for third parties as a way of eliminating the problem most efficiently.

Every day in the United States, thousands of people view rental advertisements that illegally deny housing to families with children and others protected by the federal Fair Housing Act. Although newspapers have been held liable under the Fair Housing Act for publishing discriminatory housing advertisements with statements such as "no kids," or "couples only," the publishers of similar ads on the Internet have not been held to the same legal standard.

In order to address this disparity in the law, which holds print advertisements and online advertisements to separate and unequal standards, the National Fair Housing Alliance (NFHA) urges Congress to amend the Communications Decency Act.

The federal Fair Housing Act makes it illegal to make, print or publish or cause to be made, printed or published housing ads that discriminate, limit or deny equal access to apartments or homes because of race, color, national origin, sex, religion, familial status and disability <There are, of course, additional state and local protected classes<sup>1</sup>.>.

In order to comply with the Fair Housing Act, newspapers utilize screening systems to keep advertisements containing discriminatory statements from being printed. <And they're often much more conservative than fair housing advocates are! Take a look at FHCO's popular article, "The List" ([www.FHCO.org/pdfs/article\\_theList.pdf](http://www.FHCO.org/pdfs/article_theList.pdf)) for more this and related urban legends.> However, a legal interpretation of the Communications Decency Act (CDA) holds that interactive Internet providers, like craigslist, are not publishers and, therefore, are not liable for violating the Fair Housing Act if discriminatory housing ads are published on their sites.

Yet it needn't be difficult. Internet providers can implement filtering systems just as print publications can (arguably it'd be all the easier for them to do so) to prevent individuals from posting illegally discriminatory verbiage. Either way, whether or not a site is liable in a given situation (we feel it is), the poster most certainly is!

The Fair Housing Act covers all housing ads and, while there's confusion over liability online services face when illegally discriminatory ads are posted on their sites, it is clear that the poster – that is, the housing provider doing the advertising – is most certainly liable.

Be sure you're up-to-speed with the letter and the spirit of the law, as well as developments in the fair housing world.

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<sup>1</sup> Federally protected classes under the Fair Housing Act include: race, color, national origin, religion, sex, familial status (children), and disability. Oregon law also protects marital status, source of income, sexual orientation, and domestic violence survivors. Additional protected classes have been added in particular geographic areas; visit [FHCO.org/mission.htm](http://FHCO.org/mission.htm) and read the section entitled "View Local Protected Classes" for more information.

As a housing provider advertising residential properties you should know that fair housing advocates such as our office and others, including national groups, periodically comb sites and publications for violations. Our advice: treat any possible form of advertising – whatever your role in it – as if it falls under federal, state, and / or local fair housing laws. This includes written, printed, online, posted signs, oral statements, etc. – whether free or paid.

During the past year, NFHA and <several of its members> identified more than 7,500 discriminatory ads placed by housing providers on various websites. Yet, only 1,000 complaints have been filed with U.S. Department of Housing and Urban Development (HUD) because both HUD and private fair housing agencies lack the staff and time to work through the cumbersome process required to identify and bring these landlords to justice.

Sadly, these ads reinforce the message to public readers that refusing to rent, or sell, or lend, or insure based on any of the protected classes is acceptable and even legal. What's more, it confuses those who wish to follow the law or would be inclined to if they were better informed. All the more reason for the proactive stance the FHCO has always taken on education as a tool to eradicate illegal housing discrimination coupled, of course, with enforcement activities because the battle won't be won with a 'carrot' alone.

The Fair Housing Act covers all advertising for the rental... or sale of homes as well as advertising for home loans, homeowners/renters insurance, and any service related to housing. Language in the Fair Housing Act and in the regulations implementing the law makes it clear that the law is also intended to prevent newspapers and other media from publishing advertisements or notices that limit housing to specific individuals or indicate a preference for certain people. The law states:

It shall be 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 <protected class> (emphasis added).

The NFHA report identified thousands of ads that violate the Fair Housing Act—in all 50 states and the District of Columbia, including Portland and Bend, Oregon. As a result, the national organization filed over a thousand complaints with HUD against posters.

The most common Fair Housing Act violation that NFHA and its members found on the Internet was advertising discriminating against families with children. NFHA found ads stating preferences for tenants who were "single" or "a couple of individuals." Phrases such as "perfect for young couple" or "three adults" were found in ads for houses or apartments with multiple bedrooms. These ads indicate an illegal preference or limitation and discourage families with children from even considering contacting a landlord. <Note: This is different than occupancy standards. To read up on the subject visit [www.FHCO.org/discrimination-in-oregon/protected-classes/familial/occupancy](http://www.FHCO.org/discrimination-in-oregon/protected-classes/familial/occupancy).>

Many of the properties with such discriminatory language have multiple bedrooms, and would be ideal for families with children. Some examples of discriminatory language identified include:

- 2BR: "Mature couple or single with no children" NY
- 3BR: Duplex: "Christian atmosphere" IN
- 2BR: "PERFECT FOR 2 ADULTS....seeking a maximum of 2 tenants" CT
- 2BR: "Couples preferred" Chicago, IL
- 4BR: "Looking for responsible adults to enjoy home" VT

Even if these happen to be located in designated senior communities, the description of the community as an "adult community" or the advertising of "no kids allowed" is specifically disallowed by HUD. (Visit [www.FHCO.org/discrimination-in-oregon/protected-classes/familial](http://www.FHCO.org/discrimination-in-oregon/protected-classes/familial) for more on this subject.)

A couple of my favorites that touch on other protected classes include:

- “Looking for a white lady who has a car and that's drawing a check. No Children, teenagers" TN
- “We're trying to make cheaper rent available for able bodied people who can do a few things for themselves.” GA,  
and from here in Oregon...
- RV Hookup “Hopefully we can find someone that is a Christian and loves God with all of their hearts” OR

Be sure you're well informed and complying with both the letter and the spirit of fair housing laws. Schedule a fair housing class for your staff or members today, or ask your local trade association when FHCO will be offering a class with them. In the meantime, visit our newly revised website and make full use of the information and resources posted there. While on the site, sign up for our free e-newsletter to keep up-to-speed with developments in the fair housing world.

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