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SALES AGENT/ BROKER FAIR HOUSING GUIDE

The following are some basic fair housing guidelines for sales agents and brokers who provide assistance in the sale of residential and commercial properties in Michigan. These guidelines are based on relevant State and Federal fair housing laws, court decisions and legal opinions that have interpreted those laws. If you have any questions or desire additional information, be sure to contact your attorney and/ or the Fair Housing Center.

Sales agents and brokers, their employers and the owners of properties for sale are legally responsible for compliance with all relevant fair housing laws. A complaint alleging unlawful discrimination can be filed against you individually and/ or your employer or the owner of the property. An owner may be held responsible even if the unlawful action was engaged in by the agent or broker because the duty to obey the law is non-delegable.

The standard criteria for evaluating equal housing treatment is normally: Have all people been treated equally? Fair housing laws do not raise the issue of how well people are treated. If all applicants are treated poorly, that may be bad for business but it is not, by itself, a fair housing violation. In most instances, a fair housing violation occurs when a member(s) of a legally protected group is denied the same treatment accorded to members of other groups. With few exceptions, the key for the agent or broker is to treat all people the same, without differences in treatment based on race, color, religion, nation origin, sex, age, familial, marital or handicap status. The exceptions involve certain types of senior citizens housing and housing for persons with disabilities, where housing providers may be required to meet special accessibility building requirements or make, or allow to be made, reasonable accommodations for the person's disability.

In order for agents or brokers to feel confident that they are complying with fair housing laws, FHC advises that truthfulness in all transactions is the best and safest policy. It is the most effective way to insure that all applicants are treated equally. Areas where agents often have needed to be reminded to be truthful include:

- Information about the availability of a particular property
- Information about properties similar to the type of property requested by the buyer
- Information related to the location of properties that may be of interest to a buyer
- Information about price, terms or conditions of sale of a property
- Information about the qualifications needed by a buyer to purchase a property
- Information about the types and/ or sources of financing needed by, or that may be available to, the buyer

Fair housing laws cover, and have been interpreted to cover, acts of encouragement or discouragement of potential buyers, including the use of persons in photos in advertising that would indicate any preference or limitation based on any of the protected characteristics. Some of the activities where agents/ brokers need to pay careful attention are:

- Recommending areas and/ or specific properties to be considered by the buyer
- Providing reasons why a buyer should consider one property over another
- Solicitation or accepting business from either sellers or buyers of property
- Hiring agents, referring business or utilizing financial institutions or appraisers

FHC recommends that unless required to do so by court order or a government agency, sales agents/ brokers should refrain from recording, in any way, the race, color, religion or national origin of the applicant. Such information, if used to deny equal housing opportunity, could provide a basis for a housing discrimination complaint.

Statements volunteered by sales agents/ brokers supporting an affirmative action and/ or equal opportunity policy are appropriate and in keeping with fair housing laws if such statements are made to all applicants and not to applicants based on their protected group status. Any other statements concerning the racial, ethnic or religious background of the applicant, the residents of a neighborhood or community, the owners of the property or of any other persons, while by themselves not necessarily unlawful, could provide a basis for a discrimination complaint.

Sales agents/ brokers are advised that federal and state laws protect them from retaliation by an employer/ owner if they refuse to follow the employer/ owner's instructions to unlawfully discriminate. Agents/ brokers, in fact, have standing to bring suit against employers/ owners for any attempts to require an agent/ broker to violate fair housing laws.

Incidents of harassment based on race, sex, religion, national origin, age, familial, marital or handicap status by owners, agents, brokers, neighborhood residents or others are civil rights violations and should be reported to a fair housing agency in addition to reporting criminal violations to the appropriate local, state or federal enforcement agencies. Failure to report incidents of unlawful activity may expose the agent/ broker to court actions arising from such activity.

Sales agents/ brokers who display a warm and welcome reception to all customers, and who themselves believe that full compliance with fair housing laws will help produce better communities, will be less likely, and their employers will be less likely, to become defendants in a housing discrimination complain.