



## INFORMATION ABOUT FAIR HOUSING IN REAL ESTATE

### TO HOMEBUYERS, RENTERS, SELLERS, AND APARTMENT OWNERS:

The Hudson Gateway Association of REALTORS, Inc., of which I am a member, has asked its member REALTORS to distribute this memo to everyone with whom they do business. The purpose is to promote better understanding of current fair housing laws and the ethical obligations of REALTORS.

Discrimination in the sale or rental of residential property based on race, color, religion, sex, national origin, age, familial and marital status, or disability is prohibited by one or more provisions of federal and state law. In addition, Westchester County, New York City and other jurisdictions have local fair housing laws to supplement the federal and state laws. An abstract of key federal, state, city and county laws is described in this memo.

Real estate licensees are subject to these laws. If the real estate licensee is also a REALTOR member of the Board of REALTORS, he or she is subject to the additional standard of total non-discrimination that is a part of the REALTOR Code of Ethics, Article 10. Violation of the Code leads to disciplinary action against the REALTOR in addition to the penalties under applicable laws.

But real estate agents and REALTORS are not alone in being subject to the fair housing laws. **IT IS IMPORTANT FOR REAL ESTATE BUYERS AND SELLERS TO KNOW THAT THEY, TOO, ARE SUBJECT TO MOST PROVISIONS OF THE FEDERAL, STATE, OR LOCAL FAIR HOUSING LAWS WHETHER OR NOT A REAL ESTATE AGENT OR REALTOR IS INVOLVED IN THE TRANSACTION. IN PARTICULAR, RACIAL DISCRIMINATION BY ANYONE IN THE SALE OR RENTAL OF HOUSING IS A VIOLATION OF FEDERAL LAW.**

Although the sale or rental of real property is a private act, it is subject to fair housing laws. Ordinary buyers and sellers, "testers," and regulatory agencies can and do take legal action against parties who do not deal on an equal opportunity basis. We hope this information clarifies our mutual responsibilities in fair housing. Thank you for your attention.



### The 1866 CIVIL RIGHTS ACT provided that:

"All citizens of the United States shall have the same rights, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property."

On June 17, 1968, in the case of JONES v. MAYER, the United States Supreme Court held that the 1866 law prohibits "all racial discrimination, private as well as public, in the sale or rental of property."

Thus, any individual, who feels he or she has been discriminated against, can immediately file a suit in Federal Court. The court can stop the sale of a house, or rental of an apartment, to someone else or award damages and court costs.

The 1968 Supreme Court decision further held that the 1866 Act protects all individuals against the following:

1. Denial that housing is available for inspection, sale, or rent when it is really available.
2. Discrimination in the terms or conditions of sale or rental lease.

### 1968 FAIR HOUSING LAW

Title VIII of the Civil Rights Act of 1968 (the Federal Fair Housing Law), declared it a national policy to provide fair housing throughout the United States. This law and subsequent amendment makes discrimination based on race, color, religion, sex, or national origin illegal in connection with the sale or rental of most housing and any vacant land offered for residential construction or use. The Fair Housing Law provides protection against the following acts, if they are based on race, color, religion, sex or national origin:

1. Refusal to sell or rent, to deal or negotiate with any person.
2. Denial of a loan or creation of different terms or conditions for home loans by commercial lenders, such as banks, savings and loan associations or insurance companies.
3. Discrimination, by advertising that housing is available only to persons of a certain race, color, religion, sex or national origin.
4. "Blockbusting" for profit i.e. persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood.
5. Denial to anyone of the use of, or participation in, any real estate services such as brokers' organizations, multiple listing services, or other facilities related to the selling or renting of housing.



## FAIR HOUSING AMENDMENTS ACT OF 1988

This Act strengthened the enforcement of the 1968 Fair Housing Law. It also provided substantial additional protection for disabled persons seeking housing, and limited restrictions on purchasers or renters on account of familial status or age. Sellers or landlords who would decline to sell or rent to persons on account of handicap or familial status are advised to consult an attorney beforehand.

## NEW YORK STATE LAW

New York law prohibits discrimination in the sale, rental or lease of housing accommodations on the bases of race, color, creed, national origin, sex, disability, age, marital status, military status, sexual orientation, gender identity or domestic violence victim status by the owner, lessee, sublessee, or managing agent of housing accommodations or by real estate brokers and salespersons.

The law also prohibits discrimination in:

1. The terms, conditions or privileges of the sale, rental or lease or in the furnishing of facilities or services in connection with any housing accommodation;
2. The printing or circulating of any statement or publication or the use of any form of application or publication for the purchase, rental or lease of a housing accommodation.

There are certain limited exceptions to New York State's Human Rights Law: (1) the rental of one and two family dwellings where the owners or their families reside in such dwellings, (2) the rental of rooms in housing accommodations by owners or occupants where such persons or their families actually reside in such accommodations or (3) the rental of all rooms in a housing accommodation to persons of the same sex.

## WESTCHESTER COUNTY HUMAN RIGHTS COMMISSION

In 1999 the Westchester County Board of Legislators passed a County Human Rights law and created a Human Rights Commission to enforce compliance and promote equal and fair opportunity in Westchester County. In addition to the protected classes addressed in Federal and State law, the Westchester law also prohibits discrimination by owners and real estate agents based upon race, color, religion, ethnicity, creed, age, national origin, alienage or citizenship status, familial status, gender, marital status, sexual orientation or disability.

In 2013, the Westchester County Board of Legislators amended the County Human Rights Law to include Source of Income (using government-provided rental assistance such as Section 8, LINC, or FEPS or any form of public assistance including Cash Assistance and Social Security Income towards rent) as a protected class.



## NEW YORK CITY FAIR HOUSING LAW

The NYC Human Rights Law prohibits discrimination in private and public housing, land, and commercial spaces in New York City. This means that any person selling, renting, or leasing—including landlords, superintendents, building managers, brokers, and realtors—cannot discriminate because of a person's actual or perceived protected status under the law.

It is unlawful to:

- Refuse to sell, rent, or lease housing
- Require additional payments, or charge a higher rent, security deposit, or additional fees
- Post advertisements limiting the type of tenant or stating a refusal to accept a certain type of tenant
- Fail to make adequate repairs for, or provide equal services to, certain tenants
- Refuse to accept government-provided rental assistance

Based on the following Actual or Perceived Protected Statuses:

- Age
- Gender Identity
- Race
- Disability
- Color
- Pregnancy
- Creed/Religion
- Sexual Orientation
- National Origin
- Marital or Partnership Status
- Gender
- Source of Income (using government-provided rental assistance such as Section 8, LINC, or FEPS or any form of public assistance including Cash Assistance and Social Security Income towards rent)
- Occupation
- Immigration Status
- Presence of Children
- Status as a Victim of Domestic Violence, Sexual Violence or Stalking (as of 7/26/16)