Exemptions

Advertisements relating to the sale or rental of certain dwellings may lawfully express limited preferences. These exemptions are specific and should be carefully considered before being applied. Contact the North Dakota Department of Labor and Human Rights or HUD with any questions related to these exemptions.

Housing for Older Persons: Advertisements for the sale or rental of dwellings designated as housing for older persons may indicate a limitation based on age only (55 or 62 depending on the designation).

Private Clubs: Advertisements for the sale or rental of property owned or operated by private clubs not open to the public may express a preference for club members if membership is not restricted because of race, color, or national origin.

Religious Organizations: Advertisements for the sale or rental of dwellings owned or operated by religious organizations may indicate a limitation to members of the same religion provided that membership is not restricted because of race, color, or national origin.

Shared-Living Housing: Advertisements for housing where living areas are shared by occupants, such as roommates in an apartment or dormitory facilities, may indicate a preference based on sex only.

NOTE: Even though under certain conditions the sale or rental of single family homes and units in buildings intended for occupancy by four or fewer families are exempt from housing discrimination laws, advertisements for such sales or rentals **may not** express preferences or limitations.

Terms to Avoid

To help avoid liability, words or terms that connote any of the protected categories should be avoided. While not an exhaustive list, the following are some examples of terms that may be viewed as unacceptable in advertisements for the sale or rental of a dwelling:

adult, bachelor, couple, family, mature, no children, one person, retired, sex, single, two people, Christian, executive, exclusive, handicap, integrated, membership, approval, mentally ill, religious, religious landmark, older persons, senior citizens, physically fit person, race, restricted, senior discount

Bottom Line

In general, the rule of thumb when advertising the sale or rental of a dwelling is to describe the property, NOT the person.

EQUAL HOUSING OPPORTUNITY

The work that provided the basis for this publication was supported by funding under a cooperative agreement with HUD. The substance and findings of the work are dedicated to the public. The North Dakota Department of Labor and Human Rights is solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the U.S. Government.

Note on sources:

The information provided in this brochure was compiled from a variety of sources including the January 9, 1995, HUD "Achtenberg Memorandum" and "How to Write Real Estate Ads that Compete Fairly," a 1999 publication of the Newspaper Association of America.

Have Additional Questions?
Need assistance with this information?
Contact us at:

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600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340
Phone - (701)328-2660 or 1-800-582-8032
TTY (Relay ND) - 1-800-366-6888 or-6889
Fax - (701)328-2031
E-Mail - humanrights@nd.gov
Web site - nd.gov/humanrights

Rev. 1/17

Housing-Related Advertisement:

Guidelines on How to Advertise Without Violating Housing Discrimination Laws

NORTH DAKOTA
DEPARTMENT OF LABOR AND HUMAN RIGHTS

Discriminatory Advertising

In addition to discriminatory housing practices such as refusing to sell or rent a dwelling, falsely denying the availability of a dwelling, and refusing to make a reasonable accommodation for a disabled person, state and federal housing discrimination laws prohibit advertising about the sale or rental of a dwelling in a manner that indicates a discriminatory preference.

Under North Dakota Century Code section 14-02.5-03, it is unlawful to make, print, or publish or effect the making, printing, or publishing of a notice, statement, or advertisement that is about the sale or rental of a dwelling and that indicates any preference, limitation, or discrimination or the intention to make a preference, limitation, or discrimination because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

Consistent with the Federal Fair Housing Act, advertisement under this section refers not only to published ads in newspapers but also to any other statements that are written, verbal, or non verbal. Discriminatory advertisements include but are not limited to applications, brochures, signs, banners, photographs, symbols, human models, and spoken words and phrases which convey that dwellings are available or are not available to a particular group of persons because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.

Those potentially liable for discriminatory advertising include advertising media, advertising agencies, and all other persons who use advertising to make, print or publish, or cause to be made, printed or published, advertisements with respect to the sale, rental or financing of a dwelling.

In determining whether advertising constitutes a discriminatory housing practice, courts have generally applied a “reasonable person” standard. This means that liability is incurred by a person or entity if they make an advertisement that indicates a preference and that preference is readily apparent to an ordinary reader.

The North Dakota Department of Labor and Human Rights is committed to educating the public about housing discrimination laws and to functioning as a neutral third-party in objectively and efficiently resolving housing discrimination complaints.

HUD Guidance

The Department of Housing and Urban Development’s (HUD) Fair Housing and Equal Opportunity office has issued the following guidance to its field staff with regard to determining what does and does not constitute unlawful discrimination under the Federal Fair Housing Act:

Race, Color, National Origin

Real estate advertisements should not state preference or limitation on account of race, color or national origin. Use of words describing the housing, the current or potential residents, or the neighbors or neighborhood in racial or ethnic terms such as “white family home” or “no Irish” will create liability under the law.

Religion

Real estate advertisements should not contain explicit preference, limitation, or discrimination on account of religion. Advertisements that state preferences such as “no Jews” or “Christian home” will create liability under the law. Ads using the legal name of an entity that contains a religious reference or a religious symbol (such as a cross), standing alone, may indicate a religious preference. However, if a disclaimer is included in the ad that the entity does not discriminate based on a person’s status in a protected category then the ad would not violate the law. Advertisements containing descriptions of properties such as “apartment complex with chapel” or services such as “kosher meals available” do not on their face state a preference and are not violations of the law. The use of secularized terms or symbols relating to religious holidays such as “Santa Claus,” “Easter Bunny,” or “St. Valentine’s Day,” or phrases such as “Merry Christmas” or “Happy Easter” do not constitute a violation of the law.

Sex

Advertisements for single family dwellings or separate units in a multi-family dwelling should contain no explicit preference or limitation based on sex. Terms such as “master bedroom,” “mother-in-law suite,” and “bachelor apartment” are commonly used as physical descriptions of housing units and do not violate the law.

Disability

Real estate advertisements should not contain explicit exclusions or limitations for persons with disabilities. An advertisement would be unlawful, for example, if it indicated “no wheelchairs.” Advertisements containing descriptions of properties such as “great view,” “fourth floor walk-up,” “walk-in closets,” or descriptions of services or facilities such as “jogging trails” do not violate the law. Ads describing conduct of individuals such as “non-smoking” or “sober” do not violate the law. Advertisements that describe accessibility features such as “wheelchair ramp” are lawful.

Familial Status

Advertisements may not contain limits on the number or ages of children or state a preference for adults, couples, or singles. Advertisements describing properties (“two bedroom” or “family room”), services or facilities (“no bikes allowed”), or neighborhoods (“quiet streets”) are not on their face discriminatory and do not violate the law.

State-Only Protected Categories

In addition to the protected categories covered in the HUD guidelines, it is unlawful under state law for advertisements to express any preference or limitation because of age (over 40), marital status, status with regard to public assistance, or status as a victim of domestic violence in certain circumstances.