



Fair Housing Best Practices

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- Epcon Communities follows the regulations of the Federal Fair Housing Act and its amendments, which protect all persons (citizens and non-citizens) from discrimination on the basis of:

▪ **Race** - **Color** - **Religion** - **Sex** - **Disability** - **Familial Status** - **National Origin**

- This law makes it unlawful for any person to be denied housing on the basis of these classifications.





The Fair Housing Act makes the following acts **illegal:**

- Refusal to rent, sell or deal with someone on the basis of a protected class
- Discriminate in the conditions or terms of sale, rental, or occupancy
- Advertise in a way that shows a preference or limitation on the basis of a protected class
- Falsely deny that housing is available
- Steering someone to a certain part of a building, complex, or neighborhood

A person with a **disability** has **additional protections**:

- A person with a disability must be allowed to make **reasonable modifications** to a dwelling or common use areas, **at his/her own expense**, if necessary because of the disability.
 - A reasonable modification is an **alteration to a building** or facility such as adding a ramp, no-step entrance, widening a door, or adding grab bars to a bathroom wall.
- A person with a disability must be granted a **reasonable accommodations** in **rules, policies, practices or services** if necessary for the person with the disability an equal opportunity to use the housing or common areas.
 - The housing provider must pay any expenses associated with granting the accommodation. An example of a reasonable accommodation is waiving a “no pets” policy to allow a resident who is blind to live with her guide dog and bring her guide dog into the clubhouse.

Reasonable Accommodation

- Identify the Request
- Engage in Interactive Process
- Evaluate Necessity
- Evaluate Reasonableness



Common Accommodations



Parking



Animals



HOA covenants



Meeting place with potential buyers



Communicating with potential buyers

Reasonable Modifications

- Made to existing premises whether for sale or rental
- Must be permitted if they are:
 - Done in a workmanlike manner
 - All necessary permits are sought
- For the interior of rental units, restoration may be required, but wear and tear is excepted



Reasonable Modifications

Constructing a development containing only single-family homes and customer requests a change in the construction of the home to ensure home has:

- No-step entrance
- Knee space under kitchen and bathroom sink
- Lower cabinets in kitchen



Fair Housing and Advertising

- The Fair Housing Act makes it unlawful to make any statement or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination because of race, color, religion, sex, disability, familial status, or national origin.
- The Act has been interpreted to mean that there is a violation if an ad for housing suggests to an ordinary reader that a particular protected category is preferred or dispreferred for the housing in question.
- HUD has published advertising guidelines which detail the types of advertising prohibited by the Fair Housing Act.
- The regulations disallow “using words, phrases, photographs, illustrations, symbols or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, or national origin.”

Fair Housing and Advertising

- There are certain “catch words” to avoid, such as: “Active Adult”, “Baby Boomer”, “Retirement Community”, “restrictive”, “private”, “traditional”.
- Symbols, logo types and colloquialisms may be possible indicators of illegal discrimination.
- Another type of unlawful advertising would involve the **selective use** of media, human models, or geographic areas to indicate exclusivity based on one of the protected classes.



Fair Housing and Advertising



- When human models are used in display advertising, the models should be clearly definable as reasonably representing majority and minority groups, both sexes, and when appropriate, families with children.
- The general rule of thumb is: Do not allow any type of preference to be concluded from any advertisements run at a particular property.

HOPA = Housing for Older Persons Act

- Communities developed under the “Housing for Older Persons Act” are exempted from familial status discrimination provisions.
- Two types of HOPA communities:
- Housing occupied only by persons who are age 62 years or older; or
- Housing in which 80% of the housing is occupied by at least one person who is at least 55 years old and meets various other HUD requirements



Fair Housing and Sales

- The **selling procedure** is where most sales consultants and managers become **vulnerable to discrimination complaints**. It is important to ensure that sales consultants and managers do not convey a message to buyers or residents that shows a preference or limitation to any protected class.
- An inappropriate or unlawful statement could be made over the telephone, in person, or through written material. **Consistency** in the information provided is the **key for ensuring fair housing compliance**.
- A Sales Agent may be approached by potential buyers or those pretending to be buyers asking straight forward or veiled questions about the existence of protected classes in the community.
- The best advice is to simply stick to objective comments about the community.
- **Have your Sales Agents received Fair Housing training?**

Fair Housing and Sales

- Housing Testing is an effective tool used by housing groups and the government to uncover housing discrimination.
- Poor communication or documentation can lead to a “false positive” test.
- Contract claims related to actual or implied promises made by the Sales staff.
- Documenting the interaction with potential buyers is crucial. Documentation tells the story of how you treated potential buyers equally regardless of protected class.

Document calls and visits

- Who called
- Date and Time
- What was buyer looking for
- When did buyer want to purchase
- What information did buyer request
- Follow up – if there was follow up is important

Fair Housing and Sales Should Consider

- Do you give equal time to customers?
- Do you discuss all of the amenities and features with every customer?
- Do you follow-up with every customer?



Fair Housing, ADA & Accessibility

- Important that your architects and engineers know and understand FHA and ADA requirements.
- There may be other state and local accessibility requirements in addition to FHA and ADA requirements.
- There is no right to indemnification or contribution for violations of these laws.
- Things to Consider when hiring an architect and engineer:
 - What are their qualifications?
 - Do they understand difference between local, state, and federal requirements?
 - Do they have experience in multifamily developments?

Americans with Disabilities Act

- Just as with the FHA, Accessibility Guidelines are also a part of the ADA. The ADA Accessibility Guidelines apply to any portion of your community that is a place of public accommodation.
- Typically, that would include the sales office in a clubhouse, a sales office in a garage, or a temporary sales trailer.
- A single family detached, model home is not a place of public accommodation



Sales Office

- The sales office is considered a “place of public accommodation” under the Americans with Disabilities Act. It therefore must meet the ADA Standards for Accessible Design as well as Fair Housing Act requirements.
- A temporary sales center in a trailer must comply with the ADA.
- A sales office in a garage of a single family detached home must comply with the ADA.
- Concerns relate to restroom accessibility, thresholds, lever hardware on doors, access route slopes, accessible parking spaces, etc.



Sales Office

- Restrooms that may be used by customers and an accessible route to those restrooms must Comply with the ADA standards.
- If an accessible restroom cannot be provided to the customers due to access limitations to the home or to the restroom itself, then restroom facilities should not be made available for public use.
- This restriction on public use can be accomplished by “No Public Restroom” signage or preventing access to the facilities. The sales staff should be made aware of these public use restrictions.



Sales Office Accessibility

- All doors must have sufficient clearance and clear maneuvering space.
- All doors must have lever hardware.
- The threshold at the entrance door may not exceed ½”.
- The route to the entry of the sales office must be accessible.
- The sales office must have at least one accessible parking space that is “van accessible” and must be connected to the sidewalk by a compliant curb ramp.



Units Covered by the Fair Housing Act

- Multifamily dwellings that include residential buildings containing **four or more units**.
 - Housing that is not covered by the design and construction requirements of the Act:
 - Detached single family houses
 - Duplexes or triplexes
 - Multistory units
- A unit with a finished basement is not covered
- A unit with a completed, finished second floor is not covered
- A unit with only a loft is covered



Common Violations

- Accessible Parking
- Cross Slope of Parking Space, Access Aisle, and Accessible Route
- Curb Ramps and Sidewalk Slopes
- Accessible Route must be at least 36" in width
- Accessible Parking Signage
- Mailboxes must be within reach ranges
- Amenities are not accessible



Site Impracticality

- For covered units, HUD's Guidelines and regulations provide a site impracticality exemption that allows the exemption of a certain number of units from the accessibility provisions of the FHA if the natural topography of the site has excessive sloping even though they are in an otherwise covered building.



Questions?

Thank You!

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