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Understanding Fair Housing law: Protection for RE community

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New York City homebuyers turn to New York real estate brokers — some of the best and the brightest in the business — to help them find the perfect home. In this quest, which can last several weeks or many months, buyers rely on their brokers to provide them with accurate and detailed information about neighborhoods, buildings and individual properties.

However, according to fair housing law, there are many common questions that brokers cannot legally answer. These laws, as outlined by the New York City Commission on Human Rights, “promote equal opportunity and prohibit discriminatory practices that can unfairly limit the housing choices of numerous groups.”

While the intentions behind these laws are without question praiseworthy, in practice they sometimes place brokers in an awkward position, complicating how they can describe buildings. Media has recently begun to focus on the subject, highlighting some situations when brokers, wanting to answer all of their clients’ questions, are barred from disclosing certain information.

Certain words and phrases, while seemingly innocuous, can be considered discriminatory. In most cases, it is probably best for brokers to be upfront with their clients, explaining in advance the types of questions they cannot legally answer.

A particularly sensitive subject is who lives in the building. A couple with children may want to know if there are many other families who reside in a building. A bachelor may want to know if there are other single people.

These seem like innocent inquiries; but brokers are legally prohibited from providing this informa-



tion, because it may appear that they are steering a potential homebuyer or renter to or from building based on familial or marital status.

Discussing a resident’s profession is not a permissible topic, according to fair housing law. There have been cases where potential buyers with certain professions have been turned down by sellers and co-op boards. Attorneys, for example, are a group occasionally rejected by sellers, in fear they would be litigious.

Another common issue lies in the building’s representation. It would seem that a building offering spacious three- and four-bedroom units would draw buyers with children. However, specifically promoting a building as “family friendly” or advertising the school district can infer that buyers without children are not welcome. While this is unlikely to be the case, brokers and marketing professionals must pay careful attention to the underlying messages in their sales presentations and materials, so as not to exclude any groups.

Human Rights Law identifies these groups as “protected classes,” and prohibits housing providers from asking questions that may reveal a person’s protected class. In addition to familial and marital status, protected classes include race, national origin, gender (including gender identity), creed, disability, legal occupation, sexual orientation, marital status and partnership status.

It is important for all real estate professionals, particularly those involved in marketing entire buildings, to be well-informed on the city’s laws against housing discrimination. Marketing materials and advertising copy always should be examined by an expert in fair housing issues or by a real estate attorney. While blatant discriminatory language is not likely to appear, it is important to understand how phrases can be misinterpreted.

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The brokerage community and large firms have been proactive in educating their agents about fair housing law by way of specialized training sessions. In fact, the State Legislature, with strong support from the Real Estate Board of New York, recently passed an amendment that will require all agents seeking license renewal to undergo three hours of training dedicated to fair housing.

Even the most experienced brokers in the business will benefit from training sessions hosted by legal experts. What a broker may think is merely honest or descriptive, could, in fact be prejudicial information. Further training will

only help the real estate world protect itself and help promote equal opportunity.