



**LEXINGTON-FAYETTE URBAN COUNTY
HUMAN RIGHTS COMMISSION**

FAIR HOUSING ADVERTISING AUDIT

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**EQUAL HOUSING
OPPORTUNITY**

INTRODUCTION

For a period beginning in May of 2008 and concluding the end of June 2008, the staff of the Lexington-Fayette Urban County Human Rights Commission attempted to undertake an audit or review of advertising and marketing of the local housing market with the various media sources for compliance with fair housing laws. Said audit included rental, sale of homes, homeownership insurance, and lending.

Our audit began with a review of fair housing laws and regulations. Federal¹, State², and Local³ fair housing law states that “It shall be unlawful...to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap (disability), familial status (presence of children under 18) or national origin, or an intention to make any such preference, limitation or discrimination.”

Lexington’s Local Ordinance 201-99 additionally prohibits housing discrimination based on sexual orientation and gender identity.

Both state and local laws have been found to be substantively equivalent to federal fair housing laws. State and local agencies have adopted the federal regulations relating to fair housing advertising, therefore we decided to use the Department of Housing and Urban Development’s (HUD) advertising regulations as a guide for our review. We constructed a matrix of questions to allow us to compare the various media sources and individual advertisements for our review purposes.

The following is a listing of sample questions used in the matrix:

Publisher’s Statement:

Has the publisher included a publisher statement?

Is it in the beginning of the advertising section?

Does the Fair Housing logo fit to the size ratio prescribed in the regulations?

Fair Housing Logo

Are there other logos larger than the fair housing logo?

If an ad is too small for the logo, does it contain the Equal Housing Opportunity statement or slogan?

Is the slogan/logo in all advertisements everywhere in the city, not just in certain geographic locations?

¹ See 42 U.S.C 3601 et al

² See KRS Chapter 344

³ See Local Ordinance 199-93 and 201-99

Selective Advertising:

Does the ad campaign cover the entire metropolitan area?

Use of words, phrases and symbols

Does the wording of the ad describe the property, NOT THE PEOPLE?

Are there catchwords (e.g. restricted, exclusive, private etc.)?

Is there symbology that would promote discrimination (i.e. crosses or other religious symbols)?

What about directions for real estate implying discrimination (i.e. references to schools, ethnic makeup of neighborhoods, specific references to schools, etc)?

Use of human models:

Are many different minority and majority groups that live in the metropolitan area represented?

Are they represented in equal social standing?

Are both sexes represented?

Are there children or different familial statuses?

PUBLISHER'S STATEMENT

We found consistent compliance by our largest newspaper of general publication, publications exclusively for home sales and rental and some Internet sites. Most publisher statements were easily located and straightforwardly presented. Unfortunately, almost all other media sources observed that hosted or sold housing advertising did not have a publisher's statement. This includes a broad range of periodicals including minority publications, cable and television programs, websites and magazines.

EQUAL HOUSING OPPORTUNITY SYMBOLS

Similar to the publishing statement, we found consistent usage by our largest newspaper of general circulation, banks and other related financial institutions, publications exclusively for home sales and rental and some Internet sites of the Equal Housing Opportunity symbol or similar words or phrases.

Unfortunately, almost all other media sources observed that hosted or sold housing advertising did not use the Equal Housing logo or used logos so small that they could not be easily recognized. While some advertisements were so small that it would be inappropriate to use the fair housing symbol, very few advisements observed use words "equal housing opportunity" or even the abbreviation "EOH".

HUMAN MODEL ADVERTISING

During the period observed, we found an increase in the use of human models in real estate advertising over previous periods of observations. This includes a notable increase in the use by homebuilders and new residential developments. One homebuilder had a series of advertisements with various racial and ethnic make-ups including age and children, but most such advertisement were noted by the appearance of the exclusive nature depicted by the models.

Of great concern were the advertisements for “student housing”. Other than colleges and or universities, it is very doubtful that private landlords can limit housing to “students only” but this has not stopped landlords from routinely making such sales pitches particularly around the University of Kentucky and Transylvania University. Frequently, the advertisements noted in various publications touted the location of their property in relation to the University of Kentucky but none of the advertisements that were observed made references or sales pitches to employees of the University. They were all exclusively “student housing.”

USE OF WORDS, PHRASES OR SYMBOLS

No advertisements were observed that used direct exclusive words, phrases or symbols that indicated a limitation on the use of residential property because of a protected class, but there were advertisements that used subtle words, phrases and human models in certain settings that cause concerns.

Examples of such wording were comments on the quality of the schools in the areas where the residential property is located, use of human models that did not include minorities or models in settings that seemed too exclusive from the general population.

FAIR HOUSING OVER THE INTERNET

During the period we conducted our first audit of real estate advertising over the Internet. We observed a wide variety of advertisements, but most ads featured the property and its features. However, there were several links to websites that caused much concern because they attempted to describe neighborhoods by ethnic and socioeconomic factors. One website attempted to rate the school based on solely these factors.

Some advertisements observed included the recruitment of roommates that will be discussed later, but several of these kinds of ads were of great concern.

SELECTIVE PLACEMENT OF ADVERTISING

In our review of several sources of residential publication we observed some instances of selective placement of ads by housing providers. This included limited use of an ad

campaign by a housing provider in a selective publication and in a language other than English.

Overall, we observed general compliance with this guideline. For most landlords, we observed the use of general publications of general circulations.

AFFIRMATIVE ADVERTISING (MARKETING)

Surprisingly, we observed relatively few ads in minority publications by real estate agencies or by banks and similar financial institutions even though we have several housing developments or projects developed through funding by the Department of Housing and Urban Development with affirmative marketing components. Similarly, we found relatively few banks or other mainstream financial institutions that advertised in the same publications.

Somewhat related, we found very few housing opportunities that noted they were accessible or encouraged persons with physical disabilities to apply. The question raised and to be answered is how are reputable and ethical real estate providers reaching those individuals and families who may not know of the housing opportunities available to them for which they may economically qualify?

ADVERTISING FOR ROOMMATES

There continues to be much confusion over what is or is not proper language that can be used in an advertisement in seeking a roommate. Suffice to say that based on the advertisements observed, technical assistance for publishers is greatly needed and will be recommended to the full Commission for further appropriate follow-up.

CONCLUSION

It is the recommendation of the Commission staff to the full Commission that the Commission undertakes a targeted education and outreach program that provides technical assistance and guidance to housing providers who use paid advertising to attract qualified buyers and/or tenants. This program should target advertising agencies, banks and other financial institutions, insurance companies, Realtors and real estate agents and brokers, housing consumers, and housing advocates.

**LEXINGTON-FAYETTE URBAN COUNTY
HUMAN RIGHTS COMMISSION**

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