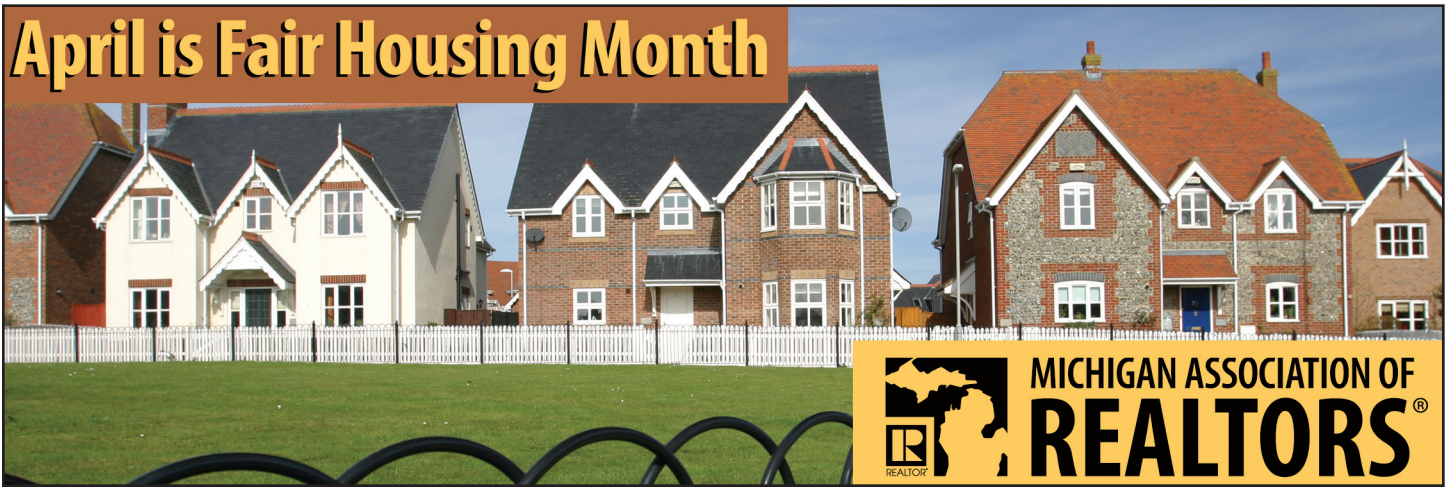


April is Fair Housing Month



You're Always Being Tested

By Brian Westrin, J.D., Manager of Legal Affairs

There is always the threat that a representative from a state fair housing center or another national fair housing proponent will walk into a particular office or open house and discover that fair housing violations have been committed. There is an element of fear involved in this continuing threat. This fear can lead to two very different courses of action. On the one hand, a broker owner could seek to safeguard his or her office by mandating strict adherence to fair housing law and equal treatment. He or she could accomplish this by sponsoring fair housing training and testing within the brokerage, creating an attitude among agents that fair housing law is an essential component to a successful office. On the other hand, a broker owner or an agent could seek to simply get by the law through a belief that they can easily spot a tester.

Clearly, strict adherence to the law is the proper course. Any licensee who attempts to play fast and loose under current fair housing law is only inviting trouble. Any puffed up belief that an agent can spot a tester is a pointless credo. The reality is that every person that walks through the door is testing the agent, representing a potential claim of housing discrimination. Homebuyers and sellers are far more sophisticated in today's world. As a result of ongoing public awareness campaigns by MAR, NAR, and other interest groups, they are now far more likely to be aware of discriminatory treatment and report it to either the Michigan Department of Civil Right or the US Department of Housing and Urban Development ("HUD"). Consider the fact that organized testing services are also actively working to uphold fair housing laws, and you have a highly aware group of individuals coming in and out of real estate offices and open houses on a daily basis.

I have had the privilege of visiting some of our local associations over the past few months to discuss legal and legislative issues. During these visits, the topic of fair housing testing and enforcement invariably comes up in discussion. I have asked more than a few REALTORS® whether they believe they know when they are being tested. The answer that I predominantly receive is the best answer anyone could hope for and it is the message that I want to relate to those reading this issue - Why does it matter? The REALTORS® that I have spoken with regarding testing have no interest in distinguishing between a tester and a regular prospective client. Their attitude is that fair housing law applies to anyone who seeks their services to market or purchase a home.

While the information I received from these meetings gives a great indication that REALTORS® are very aware that fair housing laws and the danger of violating these laws have never been more important than they are today, I was also encouraged by the dedication that many of the associations have shown towards fair housing education. For example, earlier this fall, local associations in Dearborn and Western Wayne sponsored a mandatory three hour seminar on fair housing law for all of its membership. Many other local associations are following suit.

A compelling argument in support of strict adherence to fair housing laws is that the public has benefited from increased education on their rights and their duties under the fair housing laws. Education efforts by the HUD, MAR, NAR, and the National Fair Housing Alliance, to name a few, have helped inform licensees, homeowners, and homebuyers about the duties inherent in a real estate transaction. The rule that no party in a real estate transaction may aid in discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin should be fully understood by all parties involved.

However, the encouraging attitudes that I witnessed from various local associations don't always conform to the statistics that have been released by HUD. Based on their 2005 Fair Housing Report, the numbers of fair housing complaints are rising. HUD and their many state and local partners received a combined 9,187 housing complaints during 2004. This represents a 13% increase from 2003. Of the total number of complaints in 2004, the most common complaints that have been alleged are instances of discrimination based on race (38.2%) and based on disability (37.9%). Official numbers for 2005 have not been released yet. However, the steady increase in complaints over the past few years gives credence to the idea that there is a growing importance to seek out educational opportunities and maintain constant awareness in your offices regarding fair housing laws.

For those reading this article that believe that you can spot a tester and pick and choose the type of treatment you give to your clients or customers, I urge you to think again. The statistics alone indicate that you cannot spot a tester and that you are engaging in a fool's game of chance. As REALTORS®, there is an affirmative duty to provide equal treatment to every individual that seeks out services in buying, selling, or leasing a property.