

You're Always Being Tested

Hello Michigan Realtors® and welcome back to the Letter of the Law. This coming April we celebrate Fair Housing Month. Furthermore, this year marks the 50th anniversary of the Fair Housing Act and provides an important marker for reflection, education, and continued aspiration. In addition to a strong understanding of both Federal and State fair housing law, Realtors® subscribe to a personal and heightened commitment to equality under Article 10 of the Realtor Code of Ethics. As standard bearers, it is essential that Realtors® regularly challenge themselves to engage in training and self-assessment within the brokerage.

Some years ago, I wrote an article for the “Michigan Realtor®” magazine entitled “You’re Always Being Tested.” It was written from the perspective of a new attorney, taking a fairly deep dive into fair housing education, compliance, and enforcement. At that time, one thing stood out to me that still resonates to this day. It centers on the flawed notion that a licensee can “spot” a fair housing advocate that is testing for compliance. While I can’t attest to it being a popular notion among members, it struck me as an interesting one. It highlighted a fundamental truth inherent in all fair housing law and ethics. That is, as a true reminder, a Realtor® is always best served by engaging with customers and clients as though the Realtor® is always being tested. Such an approach to service, whether with a customer or client, strikes me as an important one for a brokerage because it speaks to, not only fair housing, but customer and client service overall.

Acknowledging that such a constant state of alertness can be difficult to maintain, brokerages are very much encouraged to implement compliance programs and reminders. One such tool is the implementation of a *Fair Housing Checklist* within the office. It should be a

document that is reducible to a single page. However, it should identify in a very straightforward manner the things that a typical compliance program would address. Let's work through some of the necessary components.

The Checklist

1. **COURTESY** – It is important to work through exactly how a prospective client is received by either the office support staff or the salesperson. This is true, regardless of whether the venue is an office or the field. Are all prospective clients offered the same reception? How long must they wait before someone offers them services? How responsive are agents when they receive a voicemail or an email relative to a property? In the initial meeting or discussion, are prospective clients offered brochures and/or literature? Are they offered immediate services regarding showings of homes or are they told that someone will phone them either that day or the next day for potential showings? With regard to courtesy, the law requires that all clients and home seekers be treated alike. If equal professional services are offered to all, there should be no problems. Customer service is a truly universal concept and it should be well-executed when it comes to fair housing law. From a broker's perspective, an agent's responsiveness should be consistent and exceptional.
2. **INTERVIEWING** – Getting a handle on the housing market that the prospective client is hoping to enter is a particularly sensitive situation. During the interview process, it is imperative that every prospective client is being asked the same questions concerning price range, type of housing preference, type of features desired. If the prospective client takes charge of the interview and narrows the housing search on their own accord

then the agent should attempt to search accordingly and within the law – always remembering, however, to document the search process. Additionally, if the agent mostly facilitates the search, remember, if specific inquiries are made of some, they should be made of all.

3. **HOUSING AVAILABILITY** – It is important for a salesperson to be aware of the number of available housing choices that are ready for immediate inspection. This is especially true with low inventory levels. For many agents, this comes down to entering criteria into the computer and receiving a detailed list of options. Be certain to include all homes that fit within the criteria given to you by the client. Also, do not assume that the client understands the way in which the search may be altered by the slightest variable. If a home meets the buyer's preference, do not omit showing it. Be careful to suggest the identical number and types of homes to all persons regardless of background – or take care to explain the reasons why the given criteria may have created limitations in possible listings. Note: The content, quality and quantity of the information provided as well as the level of service provided to all prospective clients should be equal – or well documented as to any deviation.
4. **LOCATION** – Show all prospective clients the same locational choices unless you are specifically requested to show homes only in certain areas. All homes that fit the buyer's preferences must be shown to give as wide a freedom of choice of housing as possible. Ideally it should be the buyers' request and not your suggestion that determines the areas in which housing is sought – otherwise, you open the door for a potential steering claim. Requests for information and comments related to area

schools should be objective and prospects should be referred to source documents to do their own inquiry.

5. **FOLLOW-UP PLAN** – In my mind, this is arguably the most important thing to keep in mind. Out of sight should not be out of mind. Make sure the plan is consistent regarding all. If your brokerage has the practice of requesting contact information for a call back and receives the information but doesn't make a call back to a prospective client then it is necessary to look at the function of that internal policy. If the request is made for contact information and the prospective client does not have a phone or does not wish to give that information then it should be noted by the salesperson that the prospective client did not leave information for a follow-up.

Conclusion

Upholding Fair Housing Law, along with the Realtor® commitment to equal housing opportunity, is not as simple as common sense. Regular education and ready reminders are helpful in fostering a culture of compliance within the brokerage. As we celebrate the 50th Anniversary of the Fair Housing Act and work toward continued progress, I encourage you to adopt these five aspects into a checklist or teachable framework. Approach each interaction like you're always being tested. Not only will it stress awareness, it will also support the way in which a brokerage effectively documents its interactions with prospective clients.

As always thank you for watching and taking an active role in fair housing education. If you haven't already, I encourage you to reach out to your local fair housing center. They are a

great resource for education and training. If you have any questions or suggestions for future installments, please contact me at the email below. Thanks, and I'll see you next time.