

ATTORNEY GENERAL'S MEMORANDUM ON DISCRIMINATION AND FAIR HOUSING

State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL

TO: Owners of Real Estate Property
SUBJECT: New Jersey Law Against Discrimination and Federal Fair Housing Laws

PETER VERNIERO
ATTORNEY GENERAL

The rules of the New Jersey Real Estate Commission require every licensed broker or salesperson with whom you are listing your property for sale or for rent to give you a copy of this legal memorandum. The purpose of this is to help you comply with the New Jersey Law Against Discrimination ("LAD") and federal laws which prohibit discrimination in the sale or rental of real property.

Together, the LAD and the Fair Housing Amendments Act of 1988 prohibit you from discriminating against a prospective buyer or tenant because of his/her race, creed, color, national origin, sex, marital status, affectional or sexual orientation, familial status, actual or perceived physical or mental handicap, ancestry or nationality. (Note: "familial status" refers to families with a child or children under 18 years old and/or pregnant women. "Handicapped" includes persons afflicted with AIDS or HIV or perceived to be afflicted with AIDS.

The following are some of the requirements which apply to the sale or rental of your property:

1. All persons, regardless of their membership in one of the protected classes stated above, are entitled to equal treatment in the terms, conditions or privileges of the sale or rental of any real property (e.g. it is illegal to deny that housing is available for inspection, sale or rent when it really is available).
2. No discriminatory advertising of any kind relating to the proposed sale or rental is permitted.
3. The broker or salesperson with whom you list your property must refuse the listing if you indicate any intention of discriminating on any of the aforementioned bases.
4. The broker or salesperson with whom you list your property must transmit to you every written offer he/she receives on your property.
5. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on the premises is not applicable to a service or guide dog owned by a handicapped, blind or deaf tenant.
6. A landlord may not charge a handicapped, blind or deaf tenant an extra fee for keeping a service or guide dog.
7. As a landlord, you must permit a handicapped tenant, at his/her own expense, to make reasonable modifications to the existing premises if such modifications are necessary to afford such person full enjoyment of the premises.

The sale or rental of all property including open land, whether for business or residential purposes, is covered by the LAD, with the following exceptions:

1. The rental of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as his residence or the household of his family at the time of such rentals.
2. The rental of a room or rooms to another person or persons by the owner or occupant of a one family dwelling occupied by him/her as his/her residence or the household of his/her family at the time of such rental.
3. In the sale, lease or rental of real property, preference given to persons of the same religious organization.

However, these exceptions do not apply if the dwelling was built or substantially rebuilt with the use of public funds, or financed in whole or part by a loan or a commitment for a loan guaranteed or insured by any agency of the federal government. The term "any agency of the federal government" includes, but is not limited to, the Federal Housing Administration (FHA) or the Veterans Administration (VA), which are most commonly used in such matters. In addition, discrimination in connection with some of the transactions covered by the above exceptions is nevertheless prohibited under the Federal Civil Rights Act of 1866 (42 U.S.C. 1981, 1982). However, the prohibition against discrimination on the basis of familial status does not apply to housing for older persons (as defined in the "Law Against Discrimination" at N.J.S.A. 10:5-5 mm) where at least one occupant of the dwelling is at least 55 years old.

Brokers and salespersons are licensed by the New Jersey Real Estate Commission. Their activities are subject to the general real estate laws of the state and the Commission's own Rules and Regulations. The New Jersey Law Against Discrimination applies to all people in the State and is enforced by the Division on Civil Rights in the Department of Law and Public Safety.

Sincerely yours,

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY

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