

of the United States Housing Act of 1937, as amended, 42 U.S.C. 1437.

(c) *Nature of compliance review.* The purpose of a compliance review is to determine whether the applicant is in compliance with the Department's AFHM requirements and the applicant's approved AFHM plan. Where allegations under this part may also constitute a violation of the provisions of Executive Order 11063 or title VIII, the review will also determine compliance with the requirements thereof. The applicant shall be given at least five (5) days notice of the time set for any compliance review and the place or places for such review. The compliance review will cover the following areas:

- (1) Applicant's sales and rental practices, including practices in soliciting buyers and tenants, determining eligibility, selecting and rejecting buyers and renters, and in concluding sales and rental transactions.
- (2) Programs to attract minority and majority buyers and renters regardless of sex, including:
 - (i) Use of advertising media, brochures, and pamphlets;
 - (ii) Conformance with both the Department's Fair Housing Poster Regulation (24 CFR part 110) and the Advertising Guidelines for Fair Housing (37 CFR R. 6700) and any revisions thereto.
- (3) Data relating to:
 - (i) The size and location of units;
 - (ii) Services provided;
 - (iii) Sales and/or rental price ranges;
 - (iv) The race and sex of buyers and/or renters;
 - (v) Race and sex of staff engaged in sale or rental of dwellings.
- (4) Other matters relating to the marketing or sales of dwellings under HUD affirmative marketing requirements, the AFHM Plan and this part.

PART 109—FAIR HOUSING ADVERTISING

- Sec. 109.5 Policy.
 - 109.10 Purpose.
 - 109.15 Definitions.
 - 109.20 Use of words, phrases, symbols, and visual aids.
 - 109.25 Selective use of advertising media or content.
 - 109.30 Fair housing policy and practices.
- APPENDIX I TO PART 109—FAIR HOUSING ADVERTISING

Authority: Title VIII, Civil Rights Act of 1968, 42 U.S.C. 3606-3620; section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).
Source: 54 FR 3308, Jan. 23, 1989, unless otherwise noted.

§ 109.5 Policy.

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. The provisions of the Fair Housing Act (42 U.S.C. 3600, et

seq.) make it unlawful to discriminate in the sale, rental, and financing of housing, and in the provision of brokerage and appraisal services, because of race, color, religion, sex, handicap, familial status, or national origin. Section 804(c) of the Fair Housing Act, 42 U.S.C. 3604(c), as amended, makes it 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 because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. However, the prohibitions of the act regarding familial status do not apply with respect to housing for older persons, as defined in section 807(b) of the act.

§ 109.10 Purpose.

The purpose of this part is to assist all advertising media, advertising agencies and all other persons who use advertising to make, print, or publish, or cause to be made, printed, or published, advertisements with respect to the sale, rental, or financing of dwellings which are in compliance with the requirements of the Fair Housing Act. These regulations also describe the matters this Department will review in evaluating compliance with the Fair Housing Act in connection with investigations of complaints alleging discriminatory housing practices involving advertising.

§ 109.15 Definitions.

As used in this part:
(a) *Assistant Secretary* means the Assistant Secretary for Fair Housing and Equal Opportunity.
(b) *General Counsel* means the General Counsel of the Department of Housing and Urban Development.

(c) *Dwelling* means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) *Family* includes a single individual.

(e) *Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 U.S.C., receivers, and fiduciaries.

(f) *To rent* includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(g) *Discriminatory housing practice* means an act that is unlawful under section 804, 805, 806, or 818 of the Fair Housing Act.

(h) *Handicap* means, with respect to person—

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) A record of having such an impairment, or

(3) Being regarded as having such an impairment.

This term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite.

(i) *Familial status* means one or more individuals (who have not attained the age of 18 years) being domiciled with—

(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

§ 109.16 Scope.

(a) *General.* This part describes the matters the Department will review in evaluating compliance with the Fair Housing Act in connection with investigations of complaints alleging discriminatory housing practices involv-

normally consider the use of these and comparable words, phrases, symbols, and forms to indicate a possible violation of the act and to establish a need for further proceedings on the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the act is likely to result.

(a) *Words descriptive of dwelling, landlord, and tenants.* White private home, Colored home, Jewish home, Hispanic residence, adult building.

(b) *Words indicative of race, color, religion, sex, handicap, familial status, or national origin.*—(1) Race—Negro, Black, Caucasian, Oriental, American Indian.

(2) *Color.*—White, Black, Colored.

(3) *Religion.*—Protestant, Christian, Catholic, Jew.

(4) *National origin.*—Mexican American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino.

(5) *Sex.*—The exclusive use of words in advertisements, including those involving the rental of separate units in a single or multi-family dwelling, stating or tending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this part restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.

(6) *Handicap.*—crippled, blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this part restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.

(7) *Familial status.*—adults, children, singles, mature persons. Nothing in this part restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute housing for older persons as defined in part 100 of this title.

(8) *Catch words.*—Words and phrases used in a discriminatory context should be avoided, e.g., restricted, exclusive, private, integrated, traditional, board approval or membership approval.

(c) *Symbols or logotypes.* Symbols or logotypes which imply or suggest race.

ing advertising. Use of these criteria shall be considered by the General Counsel in making determinations as to whether there is reasonable cause, and the Assistant Secretary in making determinations that there is no reasonable cause, to believe that a discriminatory housing practice has occurred or is about to occur.

(1) *Advertising media.* This part provides criteria for use by advertising media in determining whether to accept and publish advertising regarding these criteria will be considered by the General Counsel in making determinations as to whether there is reasonable cause, and by the Assistant Secretary in making determinations that there is no reasonable cause, to believe that a discriminatory housing practice has occurred or is about to occur.

(2) *Persons placing advertisements.* A procedure by persons placing advertisements to use the criteria contained in this part, when found in connection with the investigation of a complaint alleging the making or use of discriminatory advertisements, will be considered by the General Counsel in making a determination of reasonable cause, and by the Assistant Secretary in making determinations that there is no reasonable cause, to believe that a discriminatory housing practice has occurred or is about to occur.

(b) *Affirmative advertising efforts.* Nothing in this part shall be construed to restrict advertising efforts designed to attract persons to dwellings who would not ordinarily be expected to apply, when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination in connection with the advertising or marketing of dwellings.

154 P-t 3308, Jan. 23, 1969, as amended at 55 P-t 33294, Dec. 28, 1990

§ 109.20 Use of words, phrases, symbols, and visual aids.

The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. In considering a complaint under the Fair Housing Act, the Department will

color, religion, sex, handicap, familial status, or national origin.

(a) *Colloquialisms.* Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status, or national origin.

(c) *Directions to real estate for sale or rent (use of maps or written instructions).* Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites). Specific directions which make reference to a racial or national origin significant area may indicate a preference. References to a synagogue, congregation or parish may also indicate a religious preference.

(f) *Area (location) description.* Names of facilities which cater to a particular racial, national origin or religious group, such as country club or private school designations, or names of facilities which are used exclusively by one sex may indicate a preference.

§ 109.25 Selective use of advertising media or content.

The selective use of advertising media or content when particular combinations thereof are used exclusively with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of the Fair Housing Act. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when in such area there are also available non-English language or other minority media, may have discriminatory impact. Similarly, the selective use of human models in advertisements may have discriminatory impact. The following are examples of the selective use of advertisements which may be discriminatory:

(a) *Selective geographic advertisements.* Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular

geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices.

(b) *Selective use of equal opportunity slogan or logo.* When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

(c) *Selective use of human models when conducting an advertising campaign.* Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex, or of adults only, in displays, photographs or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

§ 109.30 Fair housing policy and practices.

In the investigation of complaints, the Assistant Secretary will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the Fair Housing Act.

(a) *Use of Equal Housing Opportunity logo, statement, or slogan.* All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logo, statement, or slogan as a means of educating the home-seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logo, state-

ment or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Table I (see appendix I) indicates suggested use of the logotype, statement, or slogan and size of logotype. Table II (see appendix I) contains copies of the suggested Equal Housing Opportunity logotype, statement and slogan.

(b) *Use of human models.* Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one such group.

(c) *Coverage of local laws.* Where the Equal Housing Opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

(d) *Notification of fair housing policy.* (1) *Employees.* All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental or financing of real estate should provide a printed copy of their nondiscrimination policy to each employee and officer.

(2) *Clients.* All publishers or advertisers and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.

(3) *Publishers' notice.* All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III (see

appendix I). The notice may include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

APPENDIX I TO PART 109—FAIR HOUSING ADVERTISING

The following three tables may serve as a guide for the use of the Equal Housing Opportunity logotype, statement, slogan, and publisher's notice for advertising:

Table I

A simple formula can guide the real estate advertiser in using the Equal Housing Opportunity logotype, statement, or slogan.

In all space advertising (advertising in regularly printed media such as newspapers or magazines) the following standards should be used:

Size of advertisement	Size of logotype in inches
1/2 page or larger	2x4
1/4 page up to 1/2 page	1x4
4 column inches to 1/4 page	1 1/2 x 2
Less than 4 column inches	1)

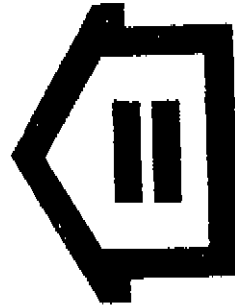
¹⁾ Do not use.

In any other advertisements, if other logotypes are used in the advertisement, then the Equal Housing Opportunity logo should be of a size at least equal to the largest of the other logotypes; if no other logotypes are used, then the type should be bold display face which is clearly visible. Alternatively, when no other logotypes are used, 3 to 5 percent of an advertisement may be devoted to a statement of the equal housing opportunity policy.

In space advertising which is less than 4 column inches (one column 4 inches long or two columns 2 inches long) of a page in size, the Equal Housing Opportunity slogan should be used. Such advertisements may be grouped with other advertisements under a caption which states that the housing is available to all without regard to race, color, religion, sex, handicap, familial status, or national origin.

Table II

Illustrations of Logotype, Statement, and Slogan. Equal Housing Opportunity Logotype:



EQUAL HOUSING OPPORTUNITY

Equal Housing Opportunity Statement: We are pleased to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.

Equal Housing Opportunity Slogan: "Equal Housing Opportunity."

Table III

Illustration of Media Notice—Publisher's notice: All real estate advertised herein is subject to the Federal Fair Housing Act, which makes it illegal to advertise "any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or intention to make any such preference, limitation, or discrimination."

We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis.

PART 110—FAIR HOUSING POSTER

Subpart A—Purpose and Definitions

Sec. 110.1 Purpose.
110.5 Definitions.

Subpart B—Requirements for Display of Posters

110.10 Persons subject.
110.15 Location of posters.
110.20 Availability of posters.
110.25 Description of posters.

Subpart C—Enforcement

110.30 Effect of failure to display poster.

AUTHORITY: Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3602-3620); sec. 7(d), Dejar-

ment of Housing and Urban Development Act (42 U.S.C. 3535(d)).

SOURCE: 37 FR 3429, Feb. 16, 1972.

Subpart A—Purpose and Definitions

§ 110.1 Purpose.

The regulations set forth in this part contain the procedures established by the Secretary of Housing and Urban Development with respect to the display of a fair housing poster by persons subject to sections 803 through 806 of the Fair Housing Act, 42 U.S.C. 3601-3606.

154 FR 3330, Jan. 21, 1989

§ 110.5 Definitions.

(a) *Department* means the Department of Housing and Urban Development.

(b) *Discriminatory housing practice* means an act that is unlawful under section 804, 805, 806, or 810 of the Act.

(c) *Dwelling* means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) *Family* includes a single individual.

(e) *Person* includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees or fiduciaries.

(f) *Secretary* means the Secretary of Housing and Urban Development.

(g) *Fair housing poster* means the display by persons subject to sections 804-806 of the Act.

(h) *The Act* means the Fair Housing Act (The Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988), 42 U.S.C. 3600, et seq.

(i) *Person in the business of selling or renting dwellings* means a person as defined in section 803(c) of the Act.

[37 FR 3429, Feb. 16, 1972, as amended at 54 FR 3311, Jan. 21, 1989]

ATTACHMENT D

RELEASE OF CLAIMS

I, _____, for the sole consideration of FIFTEEN THOUSAND DOLLARS (\$15,000.00), the payment of which shall be made in compliance with the terms of the Order entered on _____, 2002, in the case of United States and Idaho Human Rights Commission v. Victoria and Floyd Madsen, CIV 01-0468-S-BLW, do, for myself, my heirs, executors, administrators and assigns, release and forever discharge Victoria Madsen and Floyd Madsen, and their representatives, employees and agents, from any and all claims (including but not limited to claims for attorneys' fees), demands, damages, actions or causes of action on account of or in any way arising out of or relating to the allegations set forth in United States and Idaho Human Rights Commission v. Victoria and Floyd Madsen. That civil action alleged discrimination on the basis of disability under the federal Fair Housing Act and under the Idaho Human Rights Act.

By signing this Release of Claims, I expressly settle, waive, and in every other way release all rights to any related claims which were or could have been brought in United States and Idaho Human Rights Commission v. Victoria and Floyd Madsen.

It is understood and agreed that this settlement is the compromise of a disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the parties hereby released; and the parties released do not admit and specifically deny any liability therefor.

It is further understood and agreed that this release constitutes the entire agreement between the parties; that the terms of this release are contractual and not a mere recital; and that

the release is binding upon and adheres to the benefit of the parties jointly and severally, and the executors, administrators, personal representatives, heirs, and assigns of each.

I further declare and represent that no promise, inducement or agreement not herein expressed has been made to me.

Dated: _____, 2002

Signed: _____