



## Table of Contents

<b>Introduction .....</b>	<b>1</b>
<b>REALTOR® Provisions of the Federal Fair Housing Act</b>	<b>2</b>
<b>Overall Coverage of the Federal Act .....</b>	<b>3</b>
Federal Protected Cases .....	3
What is Prohibited? .....	4
Housing Opportunities for Families .....	6
Additional Protection If You Have a Disability .....	7
Requirements for New Buildings .....	7
<b>Guide to Developing Local Fair Housing Partnerships ..</b>	<b>8</b>
Step 1: Preparing for Partnership .....	8
Step 2: Initiating Partnership and Approaching Potential Partners .....	9
Step 3: Reaching and Agreement .....	9
Step 4: Identifying Issues, Planning Actions and Evaluating Successes .....	10
<b>Conclusion .....</b>	<b>11</b>

## REALTOR® Provisions of the Federal Fair Housing Act

The federal Fair Housing Act is found in the United States Code, Title 42 - The Public Health And Welfare, Chapter 45 - Fair Housing, Subchapter II - Prevention Of Intimidation. The following sections are especially pertinent to the real estate business:

### § 3605. Discrimination in residential real estate-related transactions

#### (a) *In general*

It shall be unlawful for any person or other entity whose business includes

engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) *“Residential real estate-related transaction” defined* As used in this section, the term “residential real estate-related transaction” means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance —
  - (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - (B) secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

#### (c) *Appraisal exemption*

Nothing in this subchapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

### § 3606. Discrimination in the provision of brokerage services

After Dec. 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Many of these provisions are echoed in the REALTOR® Code of Ethics. Article 10 states that REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin; and shall not be parties to any plan or agreement to discriminate against any person on the basis of race, color, religion, sex, handicap, familial status, or national origin. Standard of Practice 10-1 indicates that REALTORS® shall not volunteer information regarding the racial, religious, or ethnic composition of any neighborhood; shall not engage in any activity that may result in panic selling; and shall not print, display, or circulate any statement or advertisement with respect to the sale or leasing of a property that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin.

---

---

## Overall Coverage of the Federal Act

As most Wisconsin REALTORS® already know, there are fewer protected categories under federal fair housing law than under Wisconsin fair housing law and many local fair housing ordinances. Yet the federal law embodies the same basic principles found in all fair housing law. This *Update* is limited to a discussion of federal fair housing law. For other discussion of fair housing law, including Wisconsin fair housing law, see *Legal Updates* 97.04, 95.06, and 97.06 (pp.4-6 relating to fair housing advertising).

---

## Federal Protected Classes

The federal Fair Housing Act prohibits discrimination in housing because of:

- Race or color

### *Race – Refusal to Sell Lot to African-American Family*

In 1995, a black beauty salon owner contacted the seller of residential lots that had been advertised for sale in Montgomery, Alabama. The woman and her family were looking for a lot on which to build their dream home, and they liked these lots because the area was safe, had little traffic, and had good schools. The seller told the caller that all of the lots had already been sold. When she continued to see signs advertising the lots for sale, the woman called the seller again. The owner said that there was no way that she would sell a lot to the woman and that there was no point in discussing it further.

The Central Alabama Fair Housing

Center sent in testers to substantiate the woman's allegations of racial discrimination. A white tester was told that a lot was still for sale but that it would not be advertised any longer because "the blacks might want to buy it." Another tester mentioned to the seller that her friend might be interested in a lot, to which the seller responded, "She's white, isn't she?" A complaint was filed with HUD in April 1996. The parties' settlement agreement required the seller to deed the \$25,000 lot over to the woman and her family, free of charge. [National Fair Housing Advocate, June 1997]

- National origin

### *National Origin – City Ordinance Limits Hispanics*

In June 1996, the City of Waukegan, Illinois, enacted an ordinance permitting only a husband and wife, their children, and no more than two additional relatives to live in a house or apartment, regardless of its size. The purpose of the ordinance was to limit the number of Hispanics living in this community of 70,000 and to prevent them from "taking over" Waukegan. City officials realized that Hispanic residents often lived with extended families and believed that their family-restrictive rule would decrease the Hispanic population in the city. The ordinance was enforced on numerous occasions when city officials ordered Hispanic families to move out of their homes, even though the homes were of sufficient size to accommodate the number of people living there. The only families ordered to vacate their homes were Hispanic.

The United States Justice Department began investigating Waukegan's housing and occupancy codes after receiving several complaints from Waukegan residents. A lawsuit was filed in federal court in August 1996,

alleging that the city enacted and enforced the family-restrictive rule in such a manner and for the purpose of limiting the Hispanic population. The settlement negotiated by the parties called for Waukegan to pay \$200,000 in damages and fines and to stop enforcing the family-restrictive rule. The City was also required to train employees about fair housing law, hire a counselor for housing complaints who speaks both English and Spanish, and hold regular meetings for the public regarding housing opportunities in the city.

The settlement in this case does not mean that government cannot address dwelling overcrowding problems. Such laws may limit the total number of people living together for health and safety reasons, but may not limit the types of people living together. [National Fair Housing Advocate, July 1997]

- Religion

### **Religion – Non-Mormons Evicted**

Former tenants of a Utah apartment complex filed complaints with HUD alleging that the landlords had different rental terms and conditions for non-Mormon tenants, made discriminatory remarks to them, created a hostile environment, and forced them out of their apartments because they were not practicing Mormons. The landlords settled before evidence was heard by the administrative law judge (ALJ), agreeing to pay nearly \$30,000, to attend fair housing training, change tenant requirements, and write a letter of apology to the wrongfully-evicted non-Mormon tenants. [National Fair Housing Advocate, July 1997]

---

---

- Sex

### **Sex Harassment – Manager and Owners Responsible for Hostile Environment**

A tenant in a Hillsboro, Oregon apartment complex claimed that she was sexually harassed by the apartment complex manager from the day she moved in. The manager engaged in unwanted sexual touching, and made frequent and unannounced appearances at her door, repeated unwelcome invitations for a romantic relationship, and many distasteful remarks about her physical appearance. The manager also called her many times from his cellular telephone as was documented by telephone company records. The woman was never told who the apartment building owners were so she had no one to report the manager's conduct to. The harassment became so overwhelming for the woman that she eventually had to move out to escape the hostile environment created by the manager.

The woman filed suit against the manager and the owners of the building, alleging that they had violated the federal Fair Housing Act. The complaint alleged that the owners were responsible for protecting their tenants from the manager's harassment. Once the owners were convinced that the property manager was lying, they agreed to settle. The woman received \$70,000 as a result of private mediation, which included \$30,000 in attorney's fees. [National Fair Housing Advocate, July 1997]

- Familial status (including children under the age of 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18)

### **Familial Status – Surcharge for Children**

An apartment owner charged an extra \$15 rent whenever the second resident in a unit was a child (a couple was counted as one resident), but there was no additional charge for more than one child. A couple filed a complaint with HUD, alleging discrimination in the rental of housing based upon familial status. The administrative law judge (ALJ) found that the landlord was in violation of fair housing law, and awarded the family \$285 as repayment of the surcharge, \$600 for emotional distress, and \$2,000 as a civil penalty. [*Kelley v. Colclasure*, HUD ALJ 05-95-0516-8, Jan. 5, 1998]

- Handicap

### **Handicap – Co-op Refused Disabled Man's Request to Work at Home**

A gentleman with muscular dystrophy and his wife put in a bid for a unit in a Washington, DC co-op. The unit at the Cathedral Avenue Cooperative had previously been used by a man who used a wheelchair, and consequently had been modified in many ways that suited the gentleman's needs. The gentleman, who was a career consultant, had been unable to work outside of the home for many years.

The gentleman requested that the co-op board of directors grant him an exception from the co-op's prohibition against home-based businesses. He indicated that he typically saw between 10-15 clients a week and that those clients never disturbed other residents. This request was twice put before the co-op residents for a vote, but each time the residents refused his request. The gentleman was forced to move into an apartment where he had to make extensive modifications for his wheelchair use.

Legal action was filed, alleging that the co-op should make a reasonable accommodation for the gentleman's disability and allow him to run his career consultant business from home. The co-op settled the suit for \$180,000. This is believed to be the first case involving a disabled person's right to work in a private dwelling. While residents have the right to prohibit retail shops and other businesses in a residential co-op, the co-op needs to be responsive to the needs of persons with disabilities as long as their working at home does not interfere with the quiet enjoyment of the property by other residents. [National Fair Housing Advocate, December 1997/January 1998]

---

## **What Is Prohibited?**

*In the Sale and Rental of Housing:* No one may take any of the following actions based on race, color, national origin, religion, sex, familial status, or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

---

---

### **Denial of Rental Housing – Mature White Person Preferred**

In *Jancik v. HUD*, 44 F.3d 553 (7th Cir. 1995), the Seventh Circuit addressed alleged violations of the Fair Housing Act based on racial and family status discrimination. Jancik owned a building in a large housing complex in suburban Chicago. Jancik placed a for rent ad that included the phrase “mature person preferred.” A white female tester spoke with Jancik by phone, and after he learned that she was 36, he stated “that’s good—I don’t want any teenagers in there.” Jancik asked her national origin, to which she replied “Norwegian.” Jancik asked if she was “black Norwegian or white Norwegian.” The tester asked if he was inquiring as to her race, and he replied affirmatively. They arranged to meet the next day.

A black female tester called Jancik two hours later. Jancik asked her occupation, income, age, marital status, race, and whether she had children or pets. He said that he had to screen applicants because the building’s tenants were middle-aged and he did not want anyone who made a lot of noise or had children or pets. She told him she had no children or pets. Both testers arrived at the building the next day and were told the unit was already rented. Based on reports filed by the testers, a complaint was filed with HUD, alleging violations of advertising and interviewing rule violations with respect to race regarding race and family status. The administrative law judge (ALJ) held that Jancik’s advertising practices included discriminatory preferences regarding family status, and that his interviewing practices were discriminatory regarding race and family status.

On appeal, the Seventh Circuit found that the “mature person” advertisement discriminated on the

basis of family status. The court also noted that Jancik’s statement that “I do not want families with children in the building,” was discriminatory. The court affirmed the ALJ’s finding of discriminatory advertisements and statements.

***In Mortgage Lending:*** No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

### **Lenders’ National Origin Discrimination**

The United States Department of Justice brought suit against a New Mexico bank, alleging the bank violated fair lending laws by rejecting qualified Hispanic loan applicants while it approved similarly qualified white applicants. White applicants were also given the opportunity to explain past credit problems and outside sources of income while Hispanics with credit problems were simply rejected. In some instances, the bank didn’t even attempt to verify the credit references on applications from Hispanic customers. Hispanic applicants also were denied when they had not lived in the bank’s service area long enough or had no history of established credit while white applicants with lousy credit histories were approved. The bank reasoned that poor credit history is better than none at all.

It was noted that 25 percent of the housing in the community was mobile homes and of those living in

mobile homes, 56% are Hispanic. Therefore, the bank’s denial of mobile home loans to Hispanics significantly affected the access of Hispanic residents to housing in the area. The bank entered into a \$585,000 settlement with \$485,000 going to compensate the Hispanic applicants who had been wrongfully denied loans. A fund will also be created to provide mobile home buyers with reduced interest rates. [National Fair Housing Advocate, August 1997]

### **Racial Discrimination by Lenders - \$1.37 Billion Settlement in Mortgage-Bias Cases**

In what is considered the largest fair housing settlement ever negotiated with a lender, Temple-Inland Mortgage Corp., Banc One Mortgage Corp., and Overton Bank & Trust agreed to make \$1.37 billion in mortgage loans to low-income and moderate-income families and minorities over the next three years. As part of a HUD investigation, white and black testers were sent to the lenders with similar financial profiles. However, the black testers were often offered smaller loans. The three lenders will also have to spend over \$6 million on home ownership programs. [Wall Street Journal, March 11, 1998]

***In Addition:*** It is illegal for anyone to:

- Threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that may otherwise be exempt under federal Fair Housing Act.

---

---

### Advertising – Monthly Paper’s Ads State Preference for Members of Certain Church

A fair housing complaint was filed in 1995 in federal court against the owners and publishers of the *Montana Pioneer*, and the owners of an apartment complex. Many people associate the *Pioneer* with the Church Universal and Triumphant (CUT). The apartment owners submitted and the publishers published ads that discriminated against non-CUT members and families with minor children. The apartment owners also refused to rent to non-CUT members even when units were available.

The U.S. District Court Consent Order required the owners and the publishers to pay \$25,000, and to stop using phraseology such as “prefer male KOF,” “adults only,” “single working persons preferred,” and “KOF family or singles only.” “KOF” is an abbreviation for “Keeper of the Flame,” a term used for members of the CUT. The *Pioneer* also had to apologize to its readers for running the discriminatory ads. [National Fair Housing Advocate 1997]

---

### Housing Opportunities for Families

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

- A parent
- A person who has legal custody of the child or children or
- The designee of the parent or legal custodian, with the parent or custodian’s written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

### Familial Status – No Children Allowed in Pool

A unit owner in a Florida condominium complex took his two minor daughters to the pool at his condominium complex. Ignoring the “NO CHILDREN ALLOWED” sign, he and his daughters went swimming. First the security guard demanded that he remove his daughters from the pool. The man refused and then was confronted by a group of angry residents, including a member of the condominium’s governing board. They also insisted that the girls leave the pool. The man filed a complaint with HUD alleging discrimination against families with children. Soon afterward, the sign was removed from the pool and the condominium association stopped enforcing the rule. The association also paid the man a \$9,500 settlement after the case went to hearing. [*HUD v. Pompano Beach Club Condominium Association*, HUD ALJ Case No. 04-94-0279-8]

*Exemption:* Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a federal, state or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units; complies with HUD’s occupancy verification rules; and adheres to a published policy statement that demonstrates an intent to house persons who are 55 or older. Persons who rely on the application of this exemption to housing, in good faith as a written statement from the facility indicating that it complies plus no actual knowledge of noncompliance), are not subject to monetary damages should it be

determined the housing is not eligible for this exemption. [*Note:* Wisconsin has yet to adopt legislation mirroring these provisions and still requires significant services and facilities in housing for older persons.]

### Housing for Older Persons – Changes in Law Not Retroactive

The owners of the 134-unit Hollydale Mobilehome Estates required that all residents be over 18 years old. When the federal Fair Housing Act was amended in 1988 to prohibit housing discrimination based upon familial status, the park elected to become a senior community under the 55 and over exemption. That meant the park had to have at least one person who is 55 or older in at least 80 percent of the occupied units; provide significant facilities and services designed especially for older persons; and adhere to a published policy statement that demonstrated an intent to house persons who are 55 or older. Although existing residents were grandfathered, the residents were notified that they could only sell to people who were at least 55 years old.

In 1995, two families sued the park, claiming that it did not qualify as housing for older persons because it did not meet the significant facilities and services requirement. Thus the adults-only policy discriminated on the basis of familial status. This suit was filed just before HUD issued regulations defining “significant facilities and services,” and a few months before Congress deleted the significant facilities and services requirement from federal Fair Housing Law. The district court concluded that the 1995 HUD regulations applied to the case and found that the park qualified for the over 55 exemption under those rules. On appeal, the Ninth Circuit reversed, finding that retroactive application of the 1995 HUD regulations would “substantially alter the standard” for determining

---

whether the park qualified for the over 55 exemption. [*Covey v. Hollydale Mobilehome Estates*, No. 96-55056, 1997 U.S. App. LEXIS 14648, June 18, 1997]

---

## Additional Protection If You Have a Disability

If a tenant or someone associated with the tenant:

- Has a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities
- Has a record of such a disability or
- Is regarded as having such a disability

His or her landlord may not:

- Refuse to let the tenant make reasonable modifications to his or her dwelling or common use areas, at his or her expense, if necessary for the handicapped person to use the housing. (Where reasonable, the landlord may permit changes only if the tenant agrees to restore the property to its original condition when he or she moves out.)
- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the handicapped person to use the housing.

*Example:* A building with a “no pets” policy must allow a visually impaired tenant to keep a guide dog.

*Example:* An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near his or her apartment if necessary to assure that the tenant can have access to the tenant’s apartment.

## Handicap – Reasonable Accommodation Does Not Require Ramp or Lift Installation

Four disabled long-term tenants of a building constructed in 1910 demanded that the landlord install a ramp or lift to make the entrance to the building wheelchair accessible. The landlord estimated that this work would cost between \$25,000-\$55,000. The tenants nonetheless sued the landlord for failure to make reasonable accommodations as required by the Federal Fair Housing Act.

The court found that while the Fair Housing Act defines discrimination to include “a refusal to make reasonable accommodations in rules, policies, practices or services,” that no law or case required a landlord to undertake wholly new construction. In addition, a cost of at least \$25,000 was not reasonable given that the landlord had lost money in operating the building during the last three years. , A “reasonable” accommodation can not “pose an undue hardship or substantial burden.” [*Rodriguez v. 551 West 157<sup>th</sup> Street Owners Corp.*, No. 97 Civ. 2683(JSR), 1998 WL 32465 (S.D.N.Y.), Jan. 27, 1998]

**Direct Threat Exemption:** Housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

## Handicap – Direct Threat

Robert had lived with his parents in the apartment complex since suffering brain damage in a 1986 accident that left him unable to live independently. In 1991, the landlord declined to renew the family’s lease because Robert “endangered the safety of other lessees, and his crude, rude, sexual comments threatened and scared [her] as well as other tenants.” Robert also drank alcoholic beverages that exacerbated his behavior.

The family sued the landlord for discrimination on the basis of handicap. When their complaint was dismissed by the trial court, they appealed to the federal court of appeals, which found that the landlord’s failure to renew because of the son’s threatening and antisocial behavior was not illegal. Under federal fair housing law [*Note* that Wisconsin has a similar provision], a landlord is not required to lease to a tenant who poses a “direct threat to the health or safety” of other tenants. The court also noted that no amount of reasonable accommodation by the landlord would minimize or eliminate the risk facing the landlord and tenants. [*Foster v. Tinnea*, No. CA 96 2718, 1997 WL 805400 (La. App. 1 Cir.), Dec. 29, 1997]

---

## Requirements for New Buildings

In buildings that were ready for first occupancy after March 13, 1991, and that have an elevator and four or more units:

- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
  - An accessible route into and through the unit;
  - Accessible light switches, electrical outlets, thermostats, and other environmental controls;
  - Reinforced bathroom walls to allow later installation of grab bars; and
  - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units. These requirements for new

---

buildings do not replace any more stringent standards under state or local law.

---

## Guide To Developing Local Fair Housing Partnerships

The following discussion is taken from *Fair Housing Partnerships: Guide For Developing Local Partnerships*. This *Guide* includes information for local associations as they develop a local fair housing partnership. Several models for addressing local fair housing issues accompany a step by step outline. The complete *Guide* can be downloaded from One REALTOR® Place (Realtor.com). Look in the Legislative and Regulatory Department on Floor 4 under Equal Opportunity/Fair Housing, under Policies or Procedures. A limited number of copies are also available from the WRA Legal Department. Questions may be referred to Fred Underwood at 202/383-1132 at NAR, e-mail [funderwood@realtors.org](mailto:funderwood@realtors.org).

HUD and NAR entered into their first Voluntary Affirmative Agreement in 1975, and after several revisions and renewals, VAMA expired in December 1996. The new HUD/NAR Fair Housing Partnership focuses on the identification and eradication of local housing discrimination in our various communities. Because housing discrimination issues and priorities differ from community to community, the new national partnership is intentionally flexible and fluid. Under the HUD/NAR Partnership, partners such as local

associations may become involved in different activities such as training, self-testing, public education, affirmative marketing, and the promotion of housing choice and opportunities across racial and ethnic lines.

The National Association of REALTORS® entered into the Fair Housing Partnership with HUD in recognition that REALTORS® are committed to fair housing and will seek training to learn how to put that commitment into practice. This commitment, coupled with enforcement of the law, will work to help REALTORS® consistently provide equal housing opportunities. Housing discrimination will not go away just by making sure REALTORS® don't discriminate. REALTORS® continue to have experiences where a seller, buyer, lender, attorney, city official, or someone else seeks to take action which would violate fair housing laws. These actions impede the ability of REALTORS® to do their jobs and they harm the very communities in which REALTORS® live and work. All of these factors led to the development of a new partnership relationship on fair housing.

THE HUD/NAR Partnership Resolution is the new way to approach fair housing. The resolution is not punitive in its language or intent. It provides a new proactive way to help shape the future of fair housing. The Resolution places a new emphasis on constructive solutions to fair housing issues within individual communities, and it buttresses the efforts of the National Partners in Homeownership, as they move to implement the "Opening Markets" component of their national strategy.

---

## Step 1: Preparing for Partnership

Before meeting with HUD or other partners, it is important that a local or regional association's Equal Opportunity Committee discuss the new National Fair Housing Partnership Resolution and its implications. Although some state and local associations have had good partnership arrangements in their communities, this new arrangement may be new for many. A local or regional association should review its past and ongoing fair housing efforts and assess the impact of its efforts in eliminating housing discrimination. For example, fair housing education has proven to be successful in helping REALTORS® follow the law and affirmatively promote fair housing. Other efforts may not have been as effective. Association members should determine which fair housing efforts were successful and which new ones should be pursued in collaboration or partnership with others.

### Fair Housing Information and Education Programs

All state, regional, and local boards and associations also should all strive to continue serving the fair housing education and information needs of their members. REALTORS® will expect their associations to provide fair housing education materials and classes. Some suggested components of a local or regional association's fair housing education program are:

1. Assignment of fair housing issues to an appropriate governance body that has authority to recommend fair housing policies and programs. Traditionally, this assignment has been made to the Equal Opportunity Committee.
2. Continued availability of current and accurate fair housing training

---

---

materials. NAR has two courses on fair housing that may be purchased from NAR: *Fair Housing - Opening Doors to Equal Opportunity*, and *Fair Housing in the 90's - Rental*.

3. Availability of written fair housing information and materials for use by members. NAR publishes a *Fair Housing Handbook*, the *What Everyone Should Know About Equal Opportunity in Housing* brochure, and participant material for the two courses listed above. Boards and associations should continue the publication of fair housing information in newsletters and other publications, including Internet sites.
4. Establish and maintain partnerships and coalitions. Use this *Guide* in these efforts.

---

## Step 2: Initiating Partnership and Approaching Potential Partners

The national partners, HUD and NAR, are committed to encouraging local partnerships between HUD field offices and state, regional, and local boards and associations of REALTORS®. The national partnership provides a model for discussion, planning, and action, whose success depends on local initiatives that anticipate and develop solutions to real problems. State or local Associations, HUD field offices, or other organizations may initiate local partnership efforts.

### **Potential Fair Housing Partners**

Because REALTORS® are in a national partnership with HUD, state, regional, and local associations should first explore ways to develop partnership activities with HUD offices. The REALTOR® role in

supporting fair housing carries with it a responsibility to assure that fair housing efforts and rules will be effective in the housing market place. REALTORS® know the real estate market, but may not be knowledgeable on all the intricacies of fair housing. Fair housing advocates are not always knowledgeable on real estate. A partnership between REALTORS® and fair housing advocates from local HUD offices provides a unique opportunity to design solutions that will have a substantive impact and be effective in the market.

Other potential fair housing partners include:

✦ **Fair Housing Organizations** - Fair housing organizations, including human relations commissions and voluntary, nonprofit organizations focusing on fair housing problems. For more information <http://www.fairhousing.com>.

✦ **Local Governments** - Local governments in the metropolitan area or region (even if the jurisdiction is not participating in metropolitan or regional fair housing programs).

✦ **Advocacy Groups** - Advocacy groups and organizations that have among their concerns the needs of particular segments of the population, such as people with disabilities; families with children; immigrants and homeless persons; and specific racial or ethnic groups.

✦ **Housing Providers** - Housing provider representatives, in particular those who are aware of, and can speak to, the problems of providing moderate and low-cost housing in the community; and representatives of landlords/owners.

✦ **Banks and Other Financial Institutions** - Banks and other financial institutions that can provide loans and other financial support to improve homes or areas of the community where living conditions have deteriorated.

✦ **Educational Institutions** - Educational institutions and their representatives, including the administrators and teachers/professors who can assist in conducting studies and developing educational activities for delivery in formal and informal settings.

✦ **Other Organizations** - Other organizations and individuals, such as neighborhood organizations and representatives, that can provide information, ideas, or support in identifying impediments to fair housing at the neighborhood or other geographic level and in developing and implementing actions to address these problems.

Before contacting and meeting potential partners, associations should make sure they can clearly and succinctly state their objective for entering into a Fair Housing Partnership. Potential partners will want to know that an association is serious about ending housing discrimination.

---

## Step 3: Reaching an Agreement

Identify and review the shared goals of the various partners and begin to discuss reasons why those goals have or have not been met. Having common goals and a shared understanding of why those goals have not been met is necessary to the development of successful fair housing strategies and actions. The vision is that local partners will develop their own partnership

---

---

arrangements and determine how best to formalize their local efforts. The value of a local partnership rests in tailoring strategies and actions to address local concerns. The structure of this relationship depends on who is involved and whether the emphasis will be on one or a limited number of “projects” or a more comprehensive set of strategies. In addition, many existing partnership efforts embody the spirit of the national partnership and should continue. There is no need to replace something that is working.

In addition to the NAR/HUD National Fair Housing Partnership Model, there are many other models for local level partnerships:

▲ **Single Issue Coalition** - A local partnership might form around a single fair housing related issue or campaign. Fair Housing Month is an example of an activity designed to promote fair housing and educate the public on fair housing issues. Coalitions between Associations of REALTORS® and community based organizations have addressed issues such as the relationship between school quality and neighborhood choice, residential segregation, and continuing education requirements.

▲ **Fair Housing Advisory Boards** - Some fair housing agencies have established community advisory boards that involve local government and housing industry representatives in discussions regarding their work. These discussions can lead to agreement on shared actions to address local fair housing needs.

▲ **Fair Housing Planning** - A number of communities have developed fair housing plans to address local impediments to fair housing choice. Some communities have endeavored to involve a cross

section of the housing community in their planning efforts. Continuing these efforts can serve to achieve the purposes of the Fair Housing Partnership.

▲ **Home Ownership Efforts** - The National Partners in Homeownership is a coalition of over 60 national organizations working to increase homeownership levels across the nation. These national efforts incorporate a commitment to opening markets to remove discriminatory barriers to homeownership. The National Partners in Homeownership strategies strongly encourage the development of local home ownership efforts. Working with these local homeownership efforts and promoting fair housing as a major activity of local partnership goes a long way toward integrating fair housing into the community. Local affiliates of the National Partners in Homeownership are natural allies and supporters of the National Fair Housing Partnership.

---

## Step 4: Identifying Issues, Planning Actions and Evaluating Success

Although there may be many impediments to fair housing in a community, decisions must be made regarding which issues or concerns should be addressed first. Both HUD and NAR have many demands and limited resources. Other organizations in a partnership face similar restraints. Carefully marshaling the resources of several organizations can greatly increase each organization’s effectiveness.

HUD and NAR have identified five national issues to be addressed that have a local or community corollary

that a local fair housing partnership might adopt as its first area of concern:

**HUD/NAR’s Issue #1. There is a need to provide information to the general public concerning fair housing laws, rights and responsibilities.**

Possible Local Actions:

- (a) Local publicity campaign to inform the public about fair housing issues, concerns and possibilities.
- (b) Develop a training program for property owners and/or managers.

**HUD/NAR’s Issue #2. The achievement of a housing market free from discrimination requires the involvement of people and organizations in addition to that of the National Partners.**

Possible Local Actions:

- (a) Involve diverse community housing organizations into partnership discussions.
- (b) Participate in partnership efforts begun by others in the housing community.
- (c) Participate in strategies to address the impediments to fair housing choice identified as part of the local community’s Fair Housing Planning efforts.
- (d) Expand the focus of homeownership or housing affordability coalitions to include meaningful actions on fair housing in the community.

**HUD/NAR’s Issue #3. Real estate professionals need up-to-date information, and tools to incorporate their fair housing into their day-to-day real estate activities.**

Possible Local Actions:

- (a) Meet with local fair housing enforcement agencies to learn

---

---

what types of fair housing law violations take place in the community.

- (b) Design and disseminate fair housing “best practices” to supplement the nationally recommended “best practices” to address local fair housing issues and concerns.
- (c) Explore the possibility of creating an education and self-testing program for REALTORS®.

**HUD/NAR’s Issue #4: Real estate professionals doing certain business with the United States Department of Housing and Urban Development and other governmental agencies are required by law to design and implement affirmative fair housing marketing plans.**

Possible Local Actions:

Make the REALTOR® Model Affirmative Fair Housing Marketing Plan available to members.

**HUD/NAR’s Issue #5: Although the Partnership is national in scope, the goals of the partnership can best be implemented at the local community level.**

Possible Local Actions:

- (a) Share local partnership experiences with other state or local Associations.
- (b) Publicize your successes on the Internet and at state, regional or national meetings.

---

## Conclusion

**If current demographic trends continue, the racial and ethnic mix of America is going to become more diverse. The challenge for REALTORS® is to ensure that all people regardless of race or color have freedom to choose the home and neighborhood of their choice. Fair housing activities, whether through enforcement, education, or voluntary programs promote the vision of a housing market free from discrimination.**

---

***This Legal Update and others Updates beginning with 92.01 can be found in the Members Section of the WRA website at <http://www.wra.org>.***

---

*A subscription to the Legal Update is included in all Association Designated REALTOR® dues. Designated REALTORS® receive a monthly publication package including the Legal Update, and three rotating quarterlies (Technology, Sales & Marketing Tips, The Manager).*

*REALTORS® and Affiliate members may subscribe to the Designated REALTOR® publication package for \$30 annually. Non-member subscription rate for the package is \$130 annually. Member subscription price for the Legal Update is \$25, non-member price is \$75. Each subscription includes 12 monthly issues.*

*Contact the Wisconsin REALTORS® Association at 1-800-279-1972 or (608) 241-2047 to subscribe.*

---

---





---

---

---

Please fill out this form and return it to 608 441-3300, Wisconsin REALTORS® Association, 1000 Forest Road, Suite 200, Madison, WI 53717. If you are a salesperson, you may be waiving your right to a response to this form if you sign. A REALTOR® may not sign this form on your behalf.

DRIVER'S LICENSE NO.  
SALES PERSON'S LICENSE NO.  
WAIVER OF RIGHTS  
LEGAL OPINION  
REQUEST FOR INFORMATION

As DR r  
office(s)

(insert business name, address, phone number, fax number, email address, website, and any other information you wish to provide. If you are waiving your right to a response to this form, please indicate "all offices" or "all offices and affiliates".)  
Hotline  
be follow

Sign Name

Print Name

Social Security Number

Telephone Number



---

---

Special Insert - Amendment to RECR

Special Insert - Amendment to RECR

Special Insert - Amendment to RECR

Special Insert - Real Estate Condition Report









# Legal Update Index for 1994

Below is an index of topics for 1994 issues of the *Legal Update*, which a number of callers have requested. We will continue to revise the Index and run it when room permits. In using the index, it should be remembered that the information provided is believed to be accurate as of the date of publication. When reading older *Legal Updates*, it is worthwhile to contact the Hotline or private counsel to verify that the applicable laws have not changed.

<u>TOPIC</u>	<u>LEGAL UPDATE ISSUE</u>
<b>Agency Disclosure Forms</b>	94.05 (p. 5-6, 8-11) 94.11 (p. 4-7, 12-13)
<b>Agency Law</b>	94.05, 94.11
Duties —	94.05 (p. 2-5), 94.11 (p. 7)
Hotline Q&As —	94.11
Overall Operation —	94.11 (p. 2-4)
<b>Arbitration</b>	94.01
<b>Best of WRA Legal Hotline</b>	94.03
<b>Board of Choice</b>	94.09 (p. 1-10)
<b>Boathouse/Shelters</b>	94.04 (p. 6,7)
<b>Boating Access Standards</b>	94.04 (p. 5-6)
<b>Case Law Update</b>	94.08
<b>Condo Listing &amp; Offer to Purchase</b>	94.10
<b>Confidentiality</b>	94.05 (p. 3-4) 94.11 (p. 10-12)
<b>Contaminated Clean-up Sites</b>	94.06 (p. 4-6)
<b>Disclosure Duties</b>	94.05 (p. 2-3) 94.11 (p. 7-10)
<b>Disclosures and Misrepresentations</b>	94.08 (p. 2-4) Case Law
<b>Drug Evictions</b>	94.06 (p. 6)

<b>Dual Agency</b>	94.05 (p. 7)
<b>Duties Owed by Brokers</b>	94.05 (p. 2-5) 94.11 (p. 7)
<b>Easements Case Law</b>	94.08 (p. 8-9)
<b>Earnest Money Disbursements</b>	94.07 (p. 5-6)
Case Law —	94.08 (p.10-11)
<b>Homestead Case Law</b>	94.08 (p. 9-10)
<b>Impact Fees</b>	94.06 (p.4)
<b>Interest-Bearing Common Trust Accounts</b>	94.07 (p.2-4)
<b>Landlord/Tenant</b>	
Agency Disclosure --	94.11 (p. 14-15)
Forms	
Case Law --	94.08 (p. 4-6)
Tenant Property, --	94.06 (p. 3-4)
Disposal of	
Drug Evictions --	94.06 (p. 6)
Property Management/Rental Accounts --	94.07 (p. 3-4)
<b>Lead-Based Paint</b>	94.06 (p. 1-3)
<b>Legislative Update</b>	94.06
<b>Limited Liability Companies</b>	94.02
<b>Multiple Representation</b>	94.05 (p.7-9) 94.11 (p. 13-14)
<b>Navigability</b>	94.04 (p. 2-3)
<b>Offer Acceptance Deadline</b>	94.08 (p. 4)
<b>PECFA Revisions</b>	94.06 (p. 6-8)
<b>Piers</b>	94.04 (p. 7)
<b>Procuring Cause</b>	94.01
<b>Property Tax Assessment</b>	94.08 (p.6-8)
<b>REALTOR® Information Network (RIN)</b>	94.09 (p. 10-13)
<b>Respondent Superior</b>	94.05 (p. 6)
<b>Riparian Rights and Easements</b>	94.04 (p. 3-5)
<b>Self-Dealing Rules</b>	94.05 (p. 6)

<b>Tenant Property Left Behind, Disposal</b>	94.06 (p. 3-4)
<b>Trust Account Rules</b>	94.07
<b>Vacant Land Listing and Offer to Purchase</b>	94.12
<b>Waterfront Property Rights</b>	94.04
<b>WB-3 Vacant Land Listing Contract</b>	94.12
<b>WB-4 Condominium Listing Contract</b>	94.10
<b>WB-13 Vacant land Offer to Purchase</b>	94.12
<b>WB-14 Condominium Offer to Purchase</b>	94.10
<b>WB-42 Amendment to Listing Contract</b>	94.10 (p. 11)
<b>WB-47 Amendment to Buyer Agency</b>	94.10 (p. 11)

*A subscription to the Legal Update is included in all Association Designated REALTOR® dues. Designated REALTORS® receive a monthly publication package including the Legal Update, Wisconsin Housing Trends and three rotating quarterlies (Technology, Sales & Marketing Tips, The Manager).*

*REALTORS® and Affiliate members may subscribe to the Designated REALTOR® publication package for \$30 annually. Non-member subscription rate for the package is \$130 annually. Member subscription price for the Legal Update is \$25, non-member price is \$75. Each subscription includes 12 monthly issues.*

*Contact the Wisconsin REALTORS® Association at 1-800-279-1972 or (608) 241-2047 to subscribe.*





















