

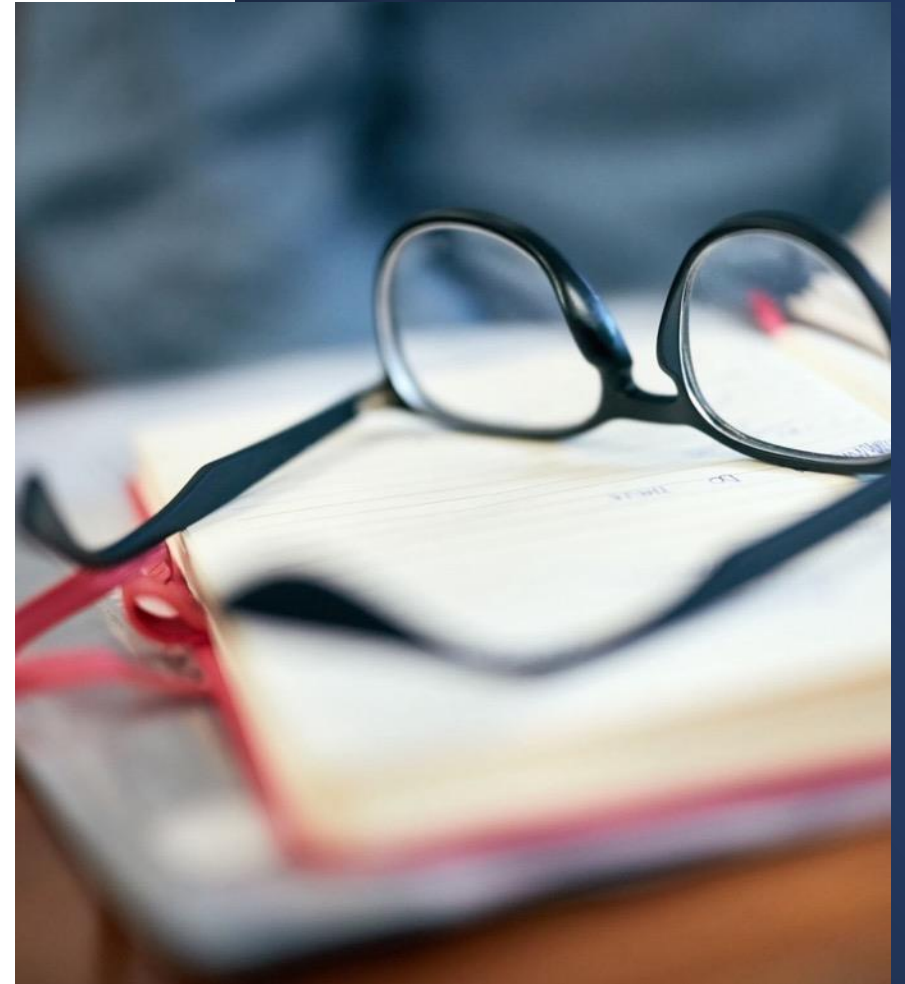


December 2025 LIBOR Legal Update

Patrick Fife, LIBOR General Counsel

LIBOR Is Your Reliable Source for Staying Updated on Legal Changes & Risks

- Thursday LIBOR Email -- Free Weekly Legal Tips
- Webinars
- Broker Portal with Monthly Newsletter and Resource Deck; Materials for Office Meetings
- LIBOR Events
- Free Monthly LIBOR Legal Update CE Class



Resources & Education LIBOR's Website



PROFESSIONALS

CONSUMERS



Don't Fall Victim to a Vacant Land Sale Scam

Feb 18, 2025 3 min read

There has been a recent increase in reports of vacant land sale scam attempts on Long Island.



Required NYS Housing and Anti-Discrimination Disclosure Form Now Available in Multiple Languages

Feb 11, 2025 2 min read

New York Department of State (DOS) had recently made the New York State Housing and Anti-Discrimination Disclosure Form (the "Disclosure Form") available in multiple...



FAQs on Written Buyer Agreements

Feb 5, 2025 3 min read

This week's legal tip answers some of the most commonly asked questions about the NAR Settlement's requirement that REALTORS® enter into a written buyer agreement before...

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Access to Legal Tips



Documents on
Demand with
Required Disclosures
& Notices



Dispute Resolution
Center



Educational
Materials for You
and Your Clients

LIBOR Legal Support Center

- LIBOR's Legal Support Center offers members exclusive access to a qualified attorney who can provide information on real estate matters. It is available from 9 a.m. to 5 p.m., Monday through Friday, excluding holidays.
- To access, dial **631-661-4800 x335**.

Some Recent Questions to the Legal Support Center



Does a Buyer Broker Need to Provide a Copy of their Buyer Rep Agreement to the Listing Broker/Seller?

- No. The Buyer Broker never needs to provide a copy of their buyer representation to the Listing Broker or Seller.
- This is an agreement between the buyer broker and their client.
- It's no different than the agreement between the listing broker and the seller.

Does the Listing Broker Need to Verify the Buyer Broker Has an Agreement with their Buyer?

- No. There is no need for the listing broker to verify what the buyer and the buyer broker have agreed to.
- It's not relevant to the seller.
- The listing broker's obligation is to obtain the best possible offer for the seller.
- The listing broker's duty is not police whether the buyer broker has an agreement with their buyer and how much the buyer broker is being compensated.

Can a Salesperson Have an Ownership Interest in their Brokerage?

- No.
- Under Section 175.22, “no licensed real estate salesperson may own, either singly or jointly, directly or indirectly, any voting shares of stock in any licensed real estate brokerage corporation with which he is associated.”
- Real Property Law § 441-b(2) also provides that “no license as a real estate salesperson may be issued to any officer of a corporation, manager or member of an LLC, or member of a partnership that is licensed as a real estate broker.”



Is it Legal for Me to Say that my Office Doesn't Handle Rentals?

- Yes --- if that's truly the case.
- There is no legal obligation that an office handle rentals.
- Some firms or agents make a business decision not to handle rentals.
- However, make sure you're consistent with your business approach.
- Helping only some prospects with rentals may lead to a claim that your refused to handle rentals to clients based on their protected class (race, religion, lawful source of income, etc.)

If My Office Doesn't Handle Rentals, Do I Need to Put the Reasonable Accommodation and Modification Notice on my Website?

- Yes. The notice informing prospective tenants of their rights to request reasonable modifications and accommodations from housing accommodations must be posted on all websites the broker creates and maintains by prominently and conspicuously displaying on the homepage of such websites a link to the Notice.
- Even if a broker doesn't handle rentals it must post the notice on its website.



Can a Landlord Charge Additional Security for a Pet?

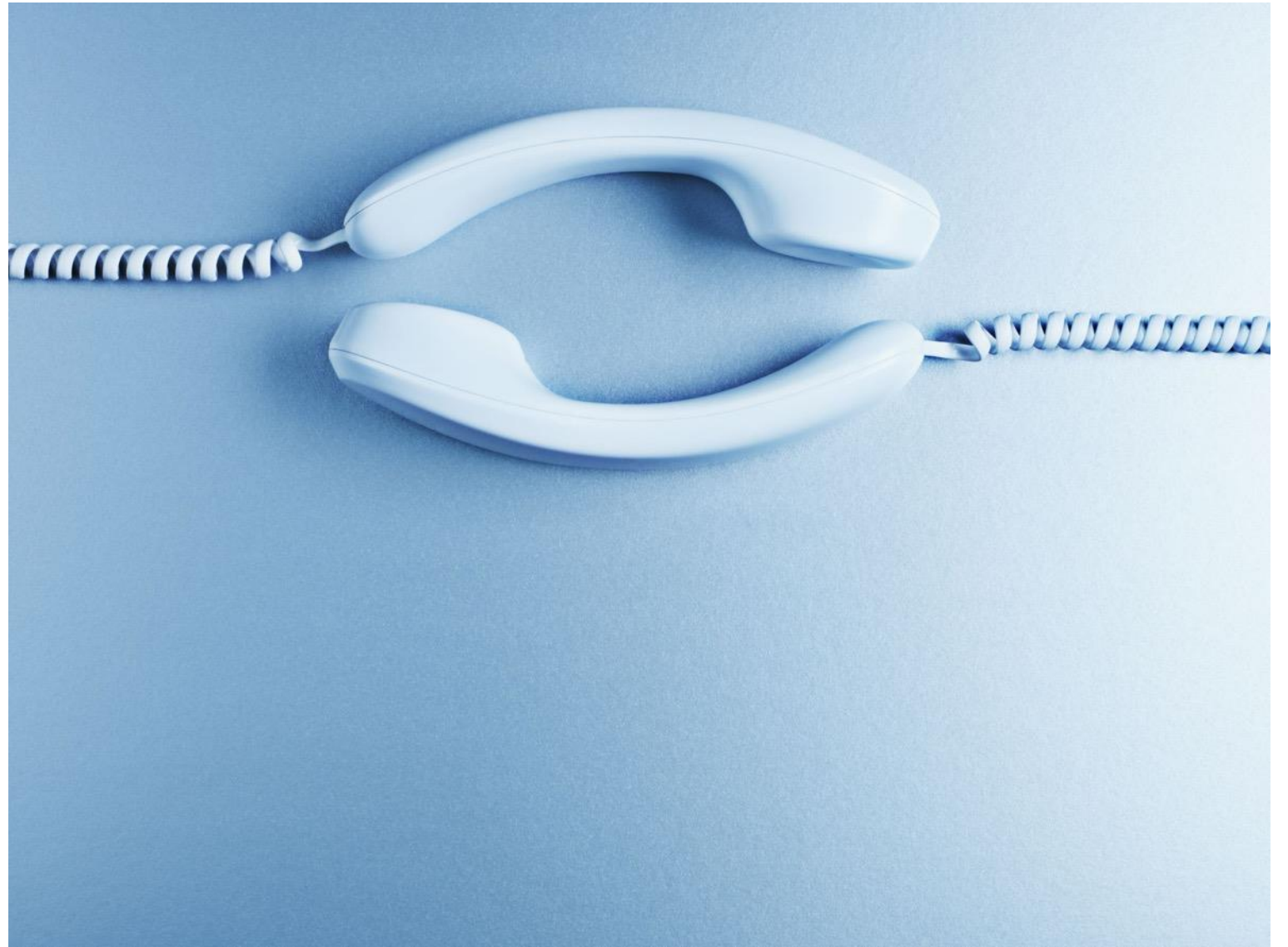
- Yes, but only if the total sum of all deposits required by the landlord doesn't exceed 1 month's rent.
- If landlord already requires 1-month security, they can charge higher monthly rent (i.e. "pet rent").
- Pet rent or extra security cannot be charged for service or emotional support animals.

What is the FARE Act and Where Does it Apply?

- New York City's Fairness in Apartment Rental Expenses (FARE) Act prohibits NYC residential landlords from passing the fees of brokers they hire onto prospective tenants.
- It applies only to residential apartments located in New York City.



Major Warning on Cold Calling



Cold Calling Is Still Not Allowed in New York

- General Business Law §399-z(5)(a) prohibits unsolicited telemarketing sales call to any person during a declared state of emergency.
- EO 47.12: Public Order at Correctional Facilities (Originally declared February 19, 2025) remains in effect until at least December 21, 2025.
- EO 52.3: Federal Actions Related to Vaccine Mandates in effect until at least December 25, 2025
- These may be extended.
- Real estate licensees may not make any unsolicited phone calls or text messages to a member of the public during a State of Emergency.
- All other types of marketing such as mailers, billboards, social media, internet etc., are permitted.

Department of State Is Enforcing Cold Call Laws

- DOS has reportedly been enforcing violations of telemarketing laws.
- Possible fines of up to \$20,000 per call.
- DOS is seeking to impose strict liability and hold brokerages and their owners liable for calls made by salespersons.
- One reported instance DOS is seeking to hold respondent licensees collectively liable for over \$13 million in connection with over 250 allegedly improper cold calls.

Brokerages Must Comply With New Laws Once Cold Calling Is Permitted

- On January 1, 2025, New York State enacted the so-called Seinfeld law
- The law requires telemarketers to do the following within the first 30 seconds of an unsolicited sales call:
 - State the caller's name.
 - Identify the company they represent.
 - Disclose the purpose of the call.
 - Reveal if the call is being recorded.
 - Offer the call recipient the option to be added to the company's internal "do not call" list.

Brokerages Must Also Comply with the National Do Not Call Registry

- New York's DNC laws incorporate the National DNC Registry,
- DOS enforces DNC Registry Violations.
- A violation occurs when a telemarketer calls a number that has been registered on the National DNC Registry for more than 31 days.
- **Bottom Line**: Brokers should have cold calling policies in place.
- **If you are going to allow cold calling, have guidelines on when it is and isn't permitted and provide scripts.**

Artificial Intelligence in Real Estate... Managing the Legal Risks





AI Capabilities

Generative AI is transforming the real estate industry by enhancing efficiency and productivity.

- Create listing descriptions
- Property searches
- Social media posts
- Marketing content
- Enhancing visual content
- And more

AI Risks and Considerations

- AI is not 100% accurate.
- AI may not comply with fair housing laws.
- Output for things like advertising and listings must comply with real estate licensing and advertising laws.

Ethical Responsibilities

- REALTORS® must ensure honesty and truthfulness.
- Avoid exaggeration, misrepresentation, or concealment.
- Can be a big problem with photos.
- Comply with Articles 2 and 12 of NAR's Code of Ethics.



Legal Responsibilities

- DOS does not yet have a formal policy on the use of AI by licensees.
- Dishonest and misleading advertisements are prohibited and could subject the real estate broker or salesperson to disciplinary action (Real Property Law § 441-c).
- All advertisements must include an honest and accurate depiction of the property being sold or leased (19 NYCRR § 175.25(c)(9)).
- General Business Law §§349, 350 and 350-a also prohibit deceptive acts and false advertising, and could subject any business or person engaged in the misleading advertising to substantial monetary penalties.

NYS Department of State November 2025 Alert on the Use of AI in Real Estate

- DOS issued a warning to homebuyers and real estate professionals about a significant rise in artificially generated pictures on real estate listings.
- “As the real estate market continues to evolve, this new trend is being used to enhance the marketing of a property; however, it also raises important concerns about accuracy, authenticity and the potential for false advertising.”



Warning From DOS on AI

“While A.I. can help homebuyers imagine what a potential home can look like, these automated technology tools may produce misleading or exaggerated representation of properties,” said Secretary of State Walter T. Mosley.

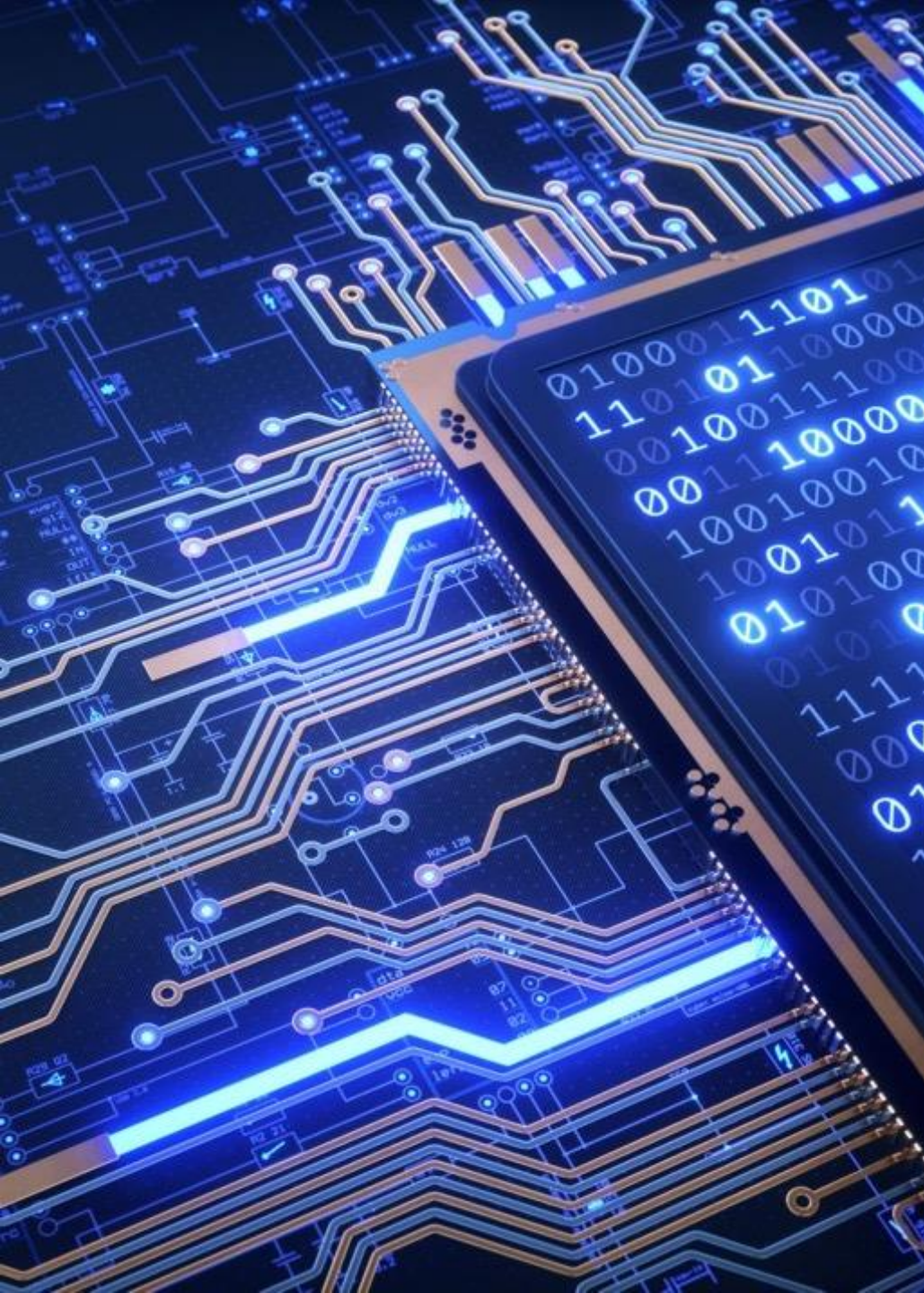
“I urge real estate agents to be mindful when listing and consumers to be vigilant when searching for their dream home.”

Does the Use of AI Images Actually Help Your Business?

- DOS Alert warned that in addition to the substantial legal risks, an agent's use of A.I. images to enhance their listings may negatively impact their bottom line.
- According to DOS, a recent study from the International Journal of Information Management, found that consumers distrust A.I.-generated images and perceive them as less authentic, less professional and misleading, which negatively affects consumer trust and purchase intentions, particularly for “high involvement decisions” like buying a home.

AI is Being Used to Impersonate Licensees

- DOS warned public to verify the identity of any real estate professional.
- There have been reported instances of scammers using AI to impersonate real estate professionals. They are posting fake listings (usually rentals) and trying to scam prospective tenants.
- Conduct a routine independent online search of your identity to see if anyone is trying to impersonate you.
- Use tools like multi-factor authentication to prevent scammers from accessing things like your MLS access and other important tools.



AI Risk Reduction Tips

- Brokers should create an AI usage policy for their office.
- Always review AI-generated content for accuracy.
- Protect personal, financial, and confidential information.
- Do not use AI to create content you wish to copyright.
- Never use AI for contracts or legal advice
- Disclose when images are AI-generated or enhanced.

Guidance on Disclosure of Digital Enhancements

- Provide both original and altered images (often side-by-side or linked).
- Label AI-enhanced images as such, using clear captions like "Digitally Enhanced," "AI-Generated," or "Virtually Staged".
- Never misrepresent the property's core condition (no hiding defects).
- Ensure transparency so buyers aren't misled into expecting something drastically different in person.



**What New
Changes to the
Code of Ethics
Mean for
REALTORS®**



NAR Delegate Body Approved Changes to the Code of Ethics

- NAR approved additional changes this month to bring the Code of Ethics more in line with the NAR Settlement Agreement.
- The changes go into effect January 1, 2026.



Article 7 Amended

- The portion of Article 7 regarding disclosure of compensation from more than one party was clarified to limit its disclosure and approval requirements to a REALTOR®'s client or clients.
- The change makes clear that there is no obligation for a buyer-broker to disclose the contents of a buyer-broker agreement to sellers or their broker.
- Listing brokers should not be asking buyer brokers to provide a copy of their agreement --- it's irrelevant.

Standard of Practice 3-4 Deleted

- Standard of Practice (SOP) 3-4 was deleted.
- The SOP's requirement to disclose a variable rate commission was predicated on a unilateral offer of compensation in the MLS. The elimination of this SOP is another step in modernizing the Code with regard to the settlement practice changes.
- This SOP was already inapplicable in New York. DOS felt it intruded on private negotiations between a seller (principal) and their listing agent, potentially requiring the disclosure of confidential information to parties not involved in that specific agreement.

Standard of Practice 17-4 Updated

- Standard of Practice (SOP) 17-4 was updated.
- 17-4 defines specific non-contractual disputes that are subject to arbitration pursuant to Article 17.
- The update ensures compliance with the tenets of the settlement agreement by reinforcing that compensation awarded in arbitration may not exceed the amount outlined within the terms of the buyer representation agreement.

Reminder: What Needs to Be in a Written Buyer Agreement

Prior to touring a home with a buyer, an MLS participant or its agents must have a written buyer agreement that:

- Discloses the amount or rate of compensation the broker will receive;
- Provides that compensation is objective ascertainable (e.g., \$0, X flat fee, X percent, X hourly rate) and not open-ended;
- **States the broker is prohibited from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and**
- Include a conspicuous statement that broker fees and commissions are fully negotiable and not set by law.

Avoid the
Practice of
Buyer Love
Letters



What Are Buyer “Love Letters”?

- In a highly-competitive bidding environment, a buyer may want to stand out and gain an advantage by writing a personal message or Buyer “Love Letter” to a seller hoping to draw a personal connection and convincing the seller to select the buyer’s offer over others.
- A Buyer’s Love Letter may try to appeal to the seller’s feelings and can place a seller in the position of indicating a preference for a buyer based on emotion or something that the seller likes or prefers about the potential buyer.
- Love Letters are not *per se* illegal in NY, but they are highly discouraged.

Buyer “Love Letters” Can Violate Fair Housing Laws

- Phrases like these raises the potential fair housing violations:
 - “We are the Smith family...”
 - “The house is ideal, especially the Kosher kitchen.”
 - “We can really see our family enjoying Christmas around the living room fireplace.”
- Far different than a buyer saying something like “we love your home and we plan to keep it just the way it is!”
- If a seller decides to sell or not to sell to a particular buyer based on factors stated in the Buyer’s Love Letter and those factors are protected under the Fair Housing Laws, the seller and the real estate agent could be subject to a fair housing complaint.



What Should You Do About Buyer “Love Letters”?

-
- NEVER suggest use of a letter that identifies protected class
 - Buyer’s Love Letters can be used as evidence of discrimination, even if there was no discriminatory intent.
 - It is illegal to refuse to sell or rent to a prospective buyer/tenant based on a protected class; and, if sellers consider other factors besides price and terms, they can open themselves up to fair housing complaints.

What if Your Client Receives or Drafts a Buyer “Love Letter”?

- If you represent a seller who receives a Buyer’s Love Letter:
 - Explain the fair housing implications of the letter and advise the seller that the letter should not be accepted.
 - If the seller insists on accepting such a letter, advise that they seek legal counsel and **document your advice**.
- If you represent a buyer who wants to draft a Buyer Love Letter:
 - Advise the Buyer there are fair housing concerns of such a letter and **document your advice**.
 - If the buyer insists on drafting the letter, you should not read, accept or deliver the letter to the seller or the seller’s agent.



Love Letter Best Practices

- Listing agent and/or buyer's agent should not be involved in the delivery of letter and should not have any knowledge as to the contents of the letter.
- If buyer insists on sending a letter, make them deliver it.
- Seller can instruct not to accept any offers with personal letters.

What if You Become Aware of a “Love Letter” that References a Protected Class?

- If you know that the buyer has delivered a letter to the seller containing references to a protected class against your advice and you know the seller has made their determination as a result of the aforementioned letter, you should immediately withdraw from the transaction.
- Do not be part of it and document everything!!!
- Commissions are not worth potential for a fair housing violation.

Avoiding Lawful Source of Income Discrimination

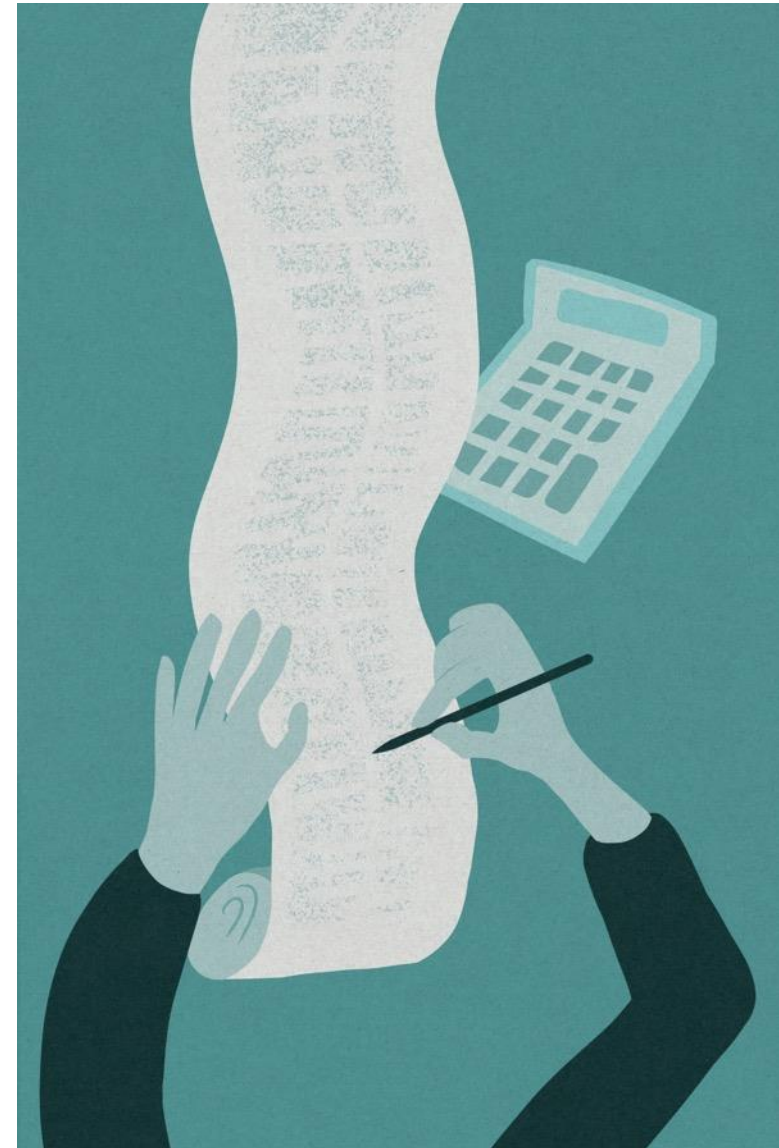


What Is Lawful Source of Income (SOLI)

- Became a Protected Class in NY in April 2019.
- Housing providers may ask about income, and about the source of income, and require documentation, in order to determine a person's ability to pay for the housing accommodation.
- But must accept all lawful sources of income equally.

Lawful Source of Income Includes:

- Child support.
- Alimony.
- Foster care subsidies.
- Income derived from social security.
- Any form of federal, state, or local public assistance.
- Housing assistance including, but not limited to, Housing Choice Vouchers (Section 8) or any other vouchers.
- Any other form of housing assistance payment or credit whether or not such income or credit is paid or attributed directly to a landlord, and any other forms of lawful income.



Recent News Reports of SOI Violations as a Result of Undercover Testing

- **December 2025:** Brooklyn brokerage and agents agreed to \$40,000 settlement with NYSDHR for allegedly agents unlawfully refused to engage with potential tenants who indicated they would pay their rent with a housing voucher rather than income from traditional employment
- **May 2025:** Long Island agent allegedly told testers that they could not use Section 8 vouchers or Veterans Affairs Supportive Housing vouchers to pay rent.
- **November 2024:** Baldwin apartment complex paid \$20K for telling testers “we don’t participate in programs for section 8” And that “certain buildings they’ll participate in it, but we’re just not one of the one that are.”
- **April 2024:** Suffolk County apartment complexes paid over \$100,000 for allegedly telling renter a voucher would be insufficient even though it provided enough to pay the rent and saying the complex had “reached its quota” on individuals using housing subsidies.



What Can SOI Discrimination Look Like?

- Failing to respond to inquires from voucher holders.
- Making Any of the following statements:
 - I don't work with voucher holders.
 - I don't work with landlords who take vouchers.
 - Let me find out if the owner takes vouchers and get back to you.
 - This apartment does not take vouchers.
 - There is a "waitlist" for people with vouchers.
 - This apartment only takes Section 8 tenants with jobs.
 - This apartment takes section 8, but you have to pay the rent for the first month or two.



Recent December 2025 NYSDHR Case Study

- Fair Housing Justice Center (FHJC) conducted tests where individuals posed as renters—some with employment-based income and some with income from housing vouchers.
- FHJC alleged disparities in the way agents treated the testers who presented as having employment-based income versus the testers who said they had vouchers.
- Agents “ghosted” or stopped responding to person once they indicated that they will cover rent using a housing voucher.
- In other circumstances, listings explicitly stated that vouchers were not accepted.

Tips to Avoid Lawful Source of Income Discrimination

- Don't turn away prospects because they receive financial assistance.
- When meeting prospects, tell them about all vacancies that meet their needs, regardless of their source of income.
- Follow standard procedures for ALL prospects regardless of their source of income.
- Ask the same questions you would ask any other prospective tenant:
 - What area are you looking in?
 - How many bedrooms are you looking for?
 - What is your price range?
- Show voucher holders the same apartments that you would show any other prospective tenant regardless of their source of income
- Ask voucher holders for (1) copy of voucher, (2) name of caseworker; and (3) educate yourself to the details of the program.

What Should I Do if an Owner Refuses to Accept Housing Vouchers or Subsidies?

- Never under any circumstances abide by a property owner's instruction to refuse to rent to tenants seeking to pay for housing with housing assistance vouchers, subsidies, or other forms of public assistance such as Section 8.
- Advise the owner that refusing to work with voucher holders is unlawful, you cannot follow their directive and stop working with that owner. Source of income discrimination must be treated like any other discrimination.



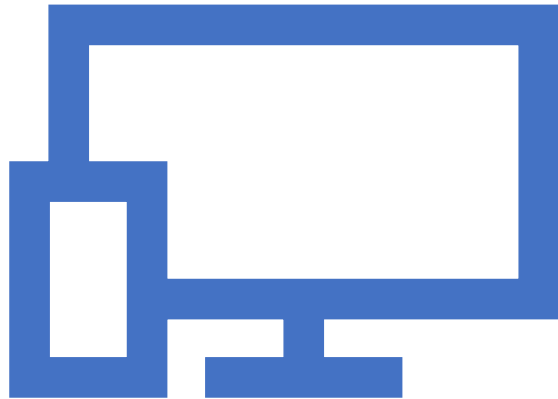
Can a Landlord Require a Credit Check or a Certain Credit Score for Voucher Holders?

- If voucher covers 100% of the rent, the landlord cannot require a credit check or reject the tenant based on a negative credit history.
- If tenant is paying a portion of the rent, credit may be considered on a case-by-case basis, but requiring a minimum credit score may still violate source of income discrimination laws.
- Credit scores and history may not be valid indicators of whether a person with a partial subsidy will pay the rent. Voucher holders often have low or no credit, so requiring a specific credit score may have the effect of excluding renters with subsidies.



Advertising Best Practices Under New York's Advertising Regulations





DOS Guidance on Advertising

- Advertising covers all “promotion and solicitation related to licensed real estate activity, including but not limited to, advertising via mail, telephone, websites, e-mail, electronic bulletin boards, business cards, signs, billboards, and flyers.”
- DOS Guidance: Advertising for Real Estate Licensees.
- Before placing any new advertisements, DOS recommends you review its Advertising Checklist.
- Brokers will be fined for agents’ illegal advertising.

Proper Use of Names and Titles

- Use of nicknames are permitted, but the full licensed name must also appear.
- Make sure you use your correct license title (e.g., "licensed real estate salesperson", etc...)
- Use of incorrect license titles such as "licensed sales agent" or simply "broker" is inappropriate.
- Corporate titles (e.g., president, vice president, etc...) can be used only by the brokers of record.
- Associate brokers and salespersons are not permitted to advertise as corporate officers.



Teams Must Advertise Properly

- Team advertisements must include the real estate broker's name.
- Team names shall either: (i) include the full licensed name of the real estate brokers, associate brokers or real estate salespersons who are part of said team; or (ii) if the names are not included, the team name must be immediately followed by “at/of [full name of the broker/brokerage].”
- Team names shall use the term “team.”
- The use of any other terms besides “team,” such as “associate,” “realty” or “group” is prohibited.
- The use of the name of a non-licensed individual in a team name is prohibited.



Brokers Are Responsible for Team Activity

- Brokers are responsible for Teams. Teams are NOT their own entity.
- A Team cannot represent that the Team itself has listings. Only a Broker can take listings
- DOS can discipline Team Members and their Brokers who allow any Team to advertise or represent that the Team itself has listings.
- Teams cannot enter into agreements with consumers, have their Team name appear on documents given to consumers, or collect commissions from anyone except their broker.
- Teams cannot issue independent contractor agreements to Team Members.
- Independent contractor agreements are between the broker and associated licensees only.

