

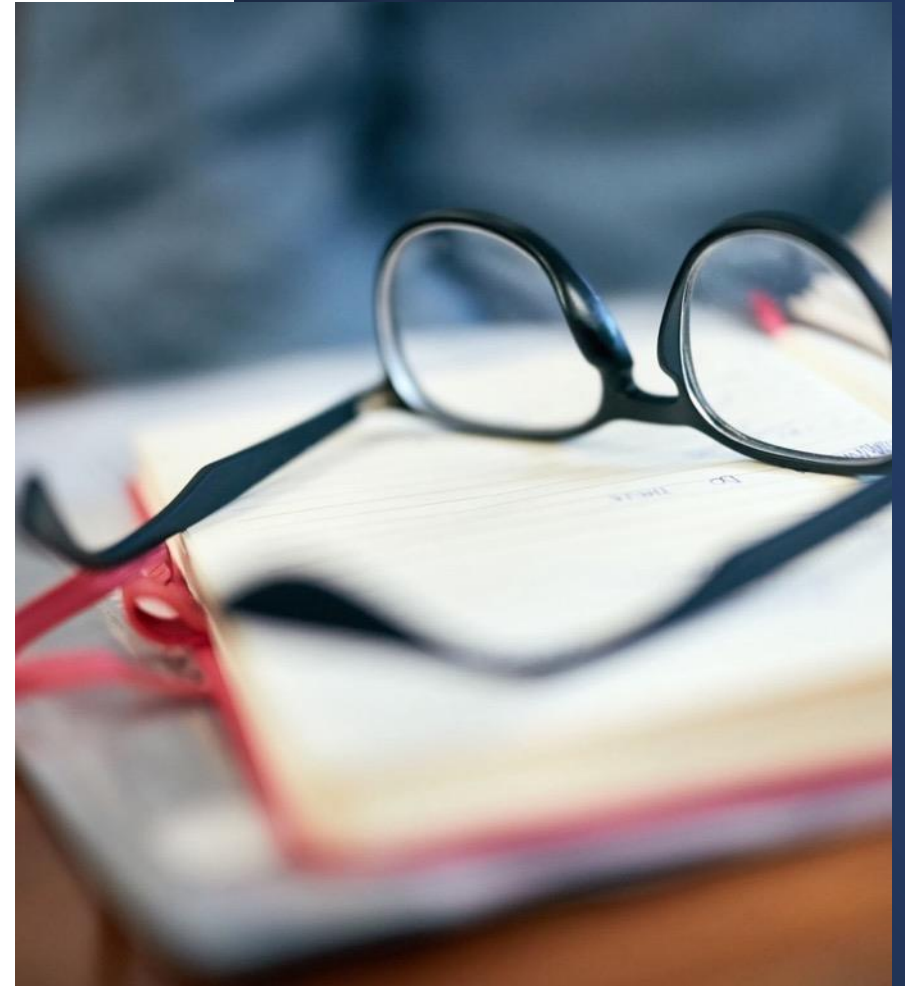


January 2026 LIBOR Legal Update

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



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CONSUMERS

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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



Can a Landlord Impose a Weight Limit on Emotional Support Animals?

- No. Housing providers must exempt emotional support animals from policies such as no-dog policies, or policies restricting the breed, weight, or size of pets, unless the exemption would cause an undue hardship to the housing provider.
- Undue hardships are extremely rare and you should require any landlord seeking such a restriction to speak to an attorney.

Can a Listing Agent Contact a Buyer They Know is Represented by Another Broker?

- No. A listing agent who knowingly contacts a buyer represented by another broker generally violates Article 16 of the National Association of REALTORS® (NAR) Code of Ethics, which prohibits interfering with exclusive relationships.
- Standard of Practice 16-13 requires dealings concerning a property to be carried out with the client's agent, not the client.

Do I Need to Have the Property Condition Disclosure Completed When the Seller is an Estate?

- No.
- In addition to the exemptions for vacant land, condos and co-ops, there are 14 other exceptions to when PCDS needs to be given, including:
 - Transfers in administration of an estate, guardianship, conservatorship or trust
 - Transfers pursuant to a court order
 - Foreclosure sale
 - New Construction



What Are the Rules for Advertising Rentals on Social Media?

- The same as all other advertising.
- You must identify your brokerage and brokerage's name and address or office phone number.
- You can't advertise another broker's exclusive listings without their permission.
- Clear Cooperation applies.



What Are The Rules Regarding Trees on a Boundary Line?

- In New York, trees with trunks located on a property boundary line are generally considered co-owned by both property owners. Neither owner can remove, cut down, or damage a boundary tree without the other's consent.
- Property owners may trim overhanging branches or roots up to the property line, but they can be liable if this action harms the tree's health.
- Always tell clients to first consult with their attorney regarding tree removal and property line issues.

What Should I Do if a Seller is Offering More Compensation than My Buyer Agreed to Pay Me in My Buyer Representation Agreement?

- If a seller offers more, you cannot accept the "bonus."
- You should look to use the excess to benefit the buyer, whether it is to lower the buyer's closing costs, reduce the purchase price or increase the offer.
- Make full disclosure to the buyer and let the buyer make the decision on how the funds can be used.



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 55:1: Winter Weather. Until at least January 28, 2026.
- EO 47.14: Public Order at Correctional Facilities (Originally declared February 19, 2025). Until at least February 15, 2026.
- EO 52.5: Federal Actions Related to Vaccine Mandates. Until at least February 22, 2026
- EO 57: Winter Weather. Until at least February 22, 2026
- 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.

NYSAR is Lobbying to Get the Law Changed

- On January 12, the state Assembly unanimously passed NYSAR-supported legislation (A.1250/S.6853) that would amend current law and lift restrictions on legitimate telemarketing business services provided by licensed professionals.
- The bill would stipulate the ability to provide telemarketing services during states of emergency when it is founded that such telemarketing services would not impair or mitigate a declared state of emergency.
- NYSAR is urging the State Senate to prioritize this bill during the 2026 legislative session.

Once Cold Calling Is Permitted, Brokerages Must Comply With Other NYS Laws

- 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.

Recent Artificial Intelligence Warning from NYS Department of State





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.

Legal Responsibilities When Using AI

- 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.

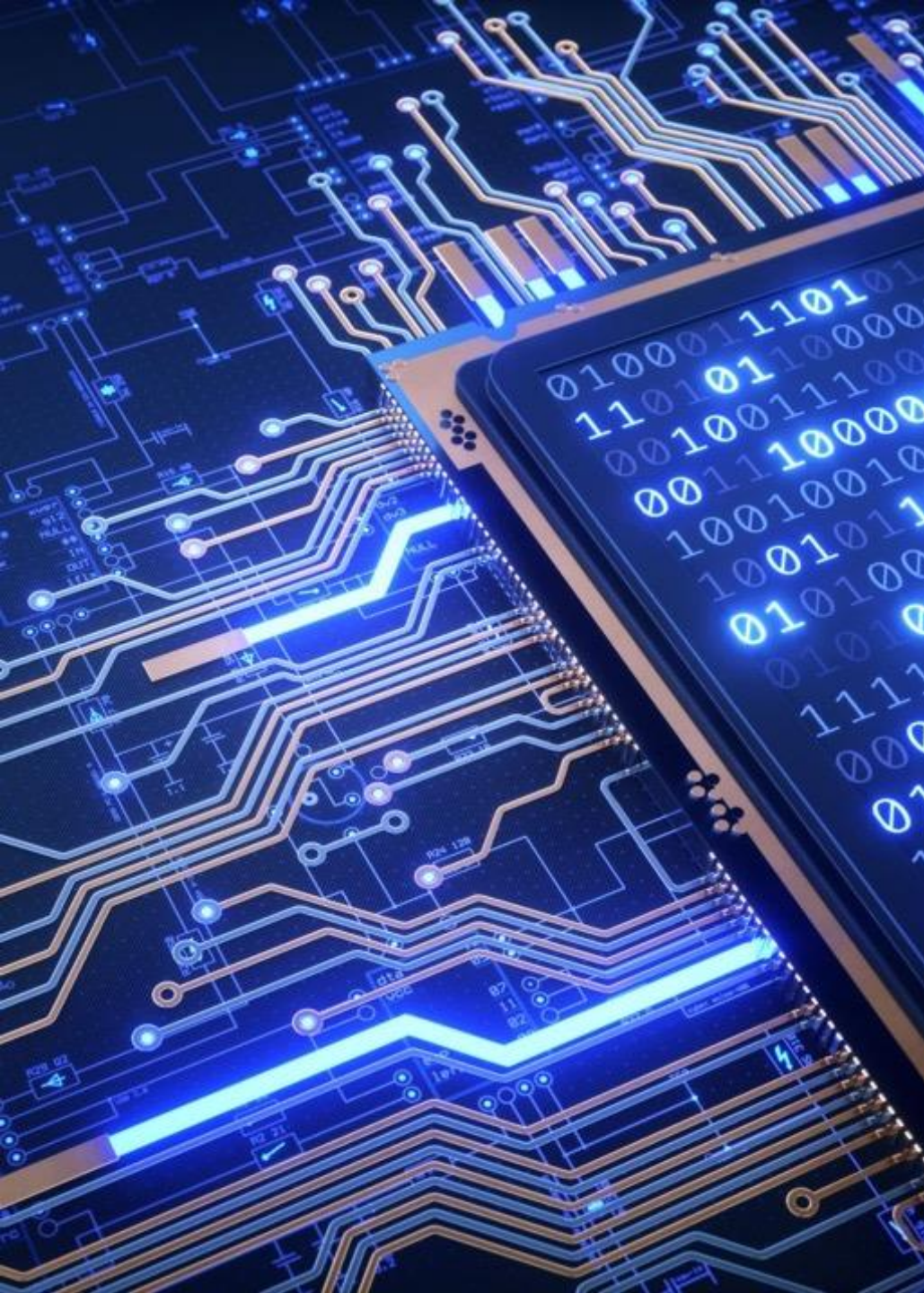
“I urge real estate agents to be mindful when listing and consumers to be vigilant when searching for their dream home.”

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.
- Require use of tools like multi-factor authentication to prevent scammers from gaining access to MLS account and other important tools.



AI Risk Reduction Tips

- **Brokers should create an AI usage policy for their office.**
- Have protocols for always reviewing AI-generated content for accuracy.
- Have policies to require protection of personal, financial, and confidential information.
- Consider having a list of approved AI tools.
- Do not use AI to create content you wish to copyright.
- Never use AI for contracts or legal advice
- Have standard disclosures for any AI-drafted materials.
- Provide both original and altered images (often side-by-side or linked).

Compliance Tips for Rental Listings



Make Sure Your NYC Residential Rentals Are in Compliance with the FARE Act

- 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.



The FARE Act Prohibits Landlord's Agent From Passing on “Any Fee” to the Tenant

§ 20-699.21 Payment of certain fees imposed in relation to the rental of residential real property. a. Except as expressly provided by subdivision 1 of section 238-a of the real property law:

1. a landlord's agent shall not impose any fee on, or collect any fee from, a tenant related to the rental of residential real property; and
2. any agent who publishes a listing for a rental of residential real property with the permission or authorization of the landlord for such property shall not impose any fee on, or collect any fee from, a tenant related to the rental of such property.

Make Sure Your Listings Aren't Seeking Illegal Excessive Deposits or Application Fees

- Pursuant to the New York State Housing Stability and Tenant Protection Act of 2019 (HSTPA), the landlord can charge only up to **one month of rent for a security deposit or advance payment.**
- **Landlord cannot collect application fees.**
- Landlords cannot charge more than a total of **\$20 for background or credit check fees.** The fee must be waived if an applicant provides their own background or credit check that was conducted within the past 30 days.

Remember that the MLS Clear Cooperation Rule Applies to Rentals

- OneKey MLS Rule 302.2 - NAR Clear Cooperation Policy: Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing is engaging in any one or more of the following: flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts, e.g.), multi-brokerage listing sharing networks, applications available to the general public, cooperating with other brokerages, or any substantively similar activity.
- All residential property classes are subject to this rule, including the following: (1) residential one-to four (1-4) family homes (but not residential properties with five (5) or more units, AND (2) residential cooperative apartments, condominiums, units in a home owner's association (HOA), townhouses, mobile homes, AND (3) residential rentals, AND (4) vacant land that is zoned only for residential development.

Make Sure You Provide Reasonable Accommodation and Modification Notice to All Prospective Tenants and it is Posted on Your Website

- This notice informs prospective tenants of their rights to request reasonable modifications and accommodations.
- A link must be posted on all websites the broker creates and maintains by prominently and conspicuously displaying on the homepage.
- The notice must be given to all prospective tenants at first substantive contact.



Be Careful if Landlord Wants to Charge an Extra Pet Deposit

- The total sum of all deposits required by a landlord cannot 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.

Avoiding Lawful Source of Income Discrimination

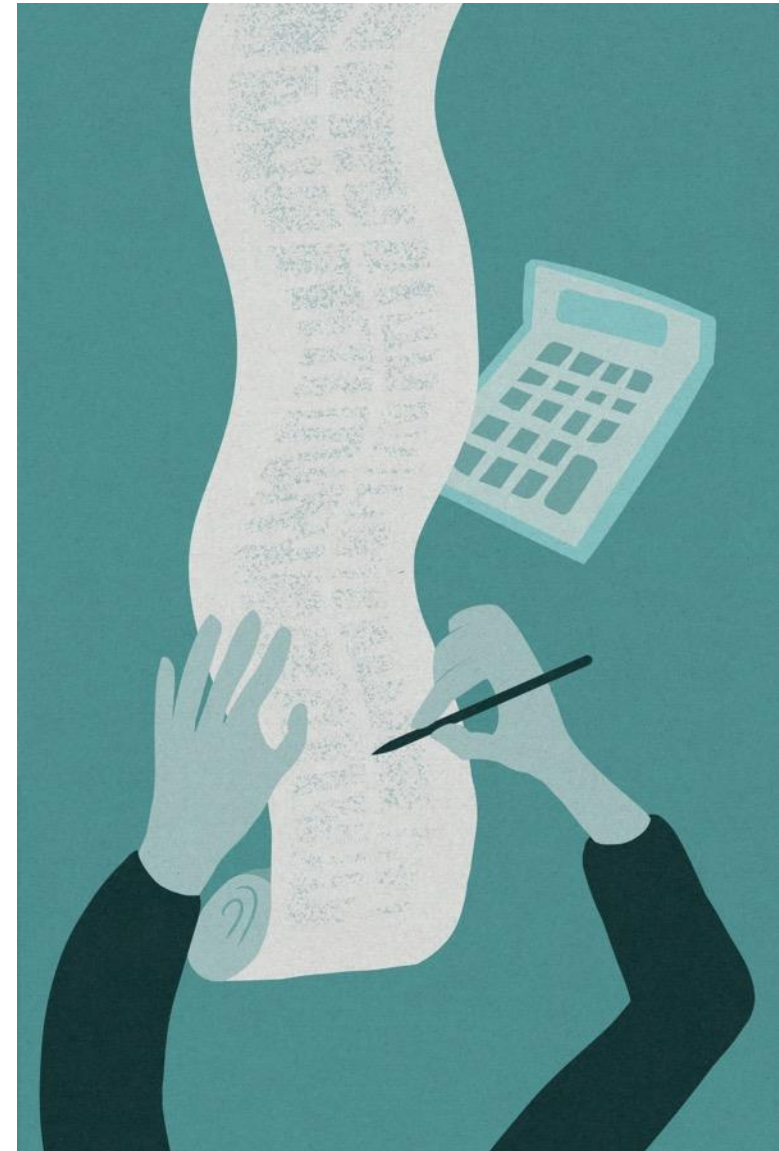


What Is Lawful Source of Income (SOLI)

- 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 inquiries 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.

Have Procedures in Place to Prevent Lawful Source of Income Discrimination

- Have 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?
- 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.
- Show voucher holders the same apartments that you would 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.



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.

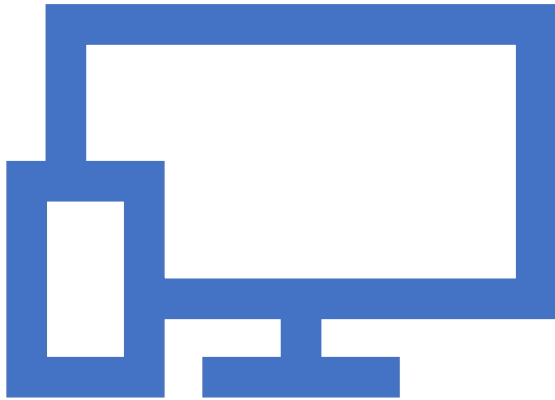


What if You Become Aware of a “Love Letter” that References a Protected Class?

- 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.

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.

