



SPiRALNY
REAL ESTATE

Fair Housing and the Ostrich Syndrome

“It could never happen here.”

**“No one in my office would
discriminate!”**

**“We don’t have those sorts of
problems.”**

Stereotypes

Appearances

Impressions

Attitudes

Assumptions

Preferences

Prejudices

Fears

Feelings

What matters??



The Learning Curve

- WHEN DO WE LEARN ABOUT FAIR HOUSING LAWS AND HOW OFTEN DO WE REVISIT THEM?
- HOW DO WE LEARN:
 - DO THE RIGHT THING
 - ECONOMIC BENEFIT
 - SCARE TACTICS
- HOW DO WE STAY CURRENT?
- HOW DO WE MONITOR WHAT OCCURS IN OUR OFFICE?
- ARE BROKERS RESPONSIBLE FOR THE ACTIONS OF THEIR AGENTS?

Holley vs. Crank, 258 F.3d 1127, 9th US App.

In 1996 a racially mixed couple viewed properties with a real estate agent from Triad Realty in California. The couple alleged that the agent only showed them properties outside their price range. The next month the couple found new construction which was listed by the same firm and made an offer through a different agent. The agent advised them that he thought that the offer was sufficient, as did the builder. However, the agent subsequently contacted the couple to advise them that a more experienced agent in the office, the same agent the prospective purchasers had originally dealt with, thought that their offer was insufficient to hold the house.

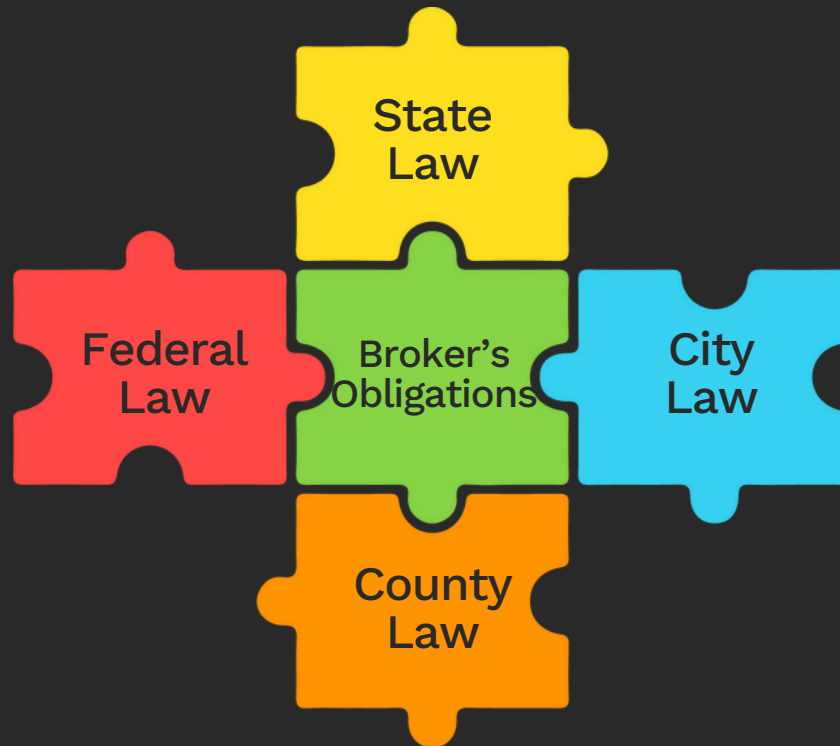
Holley vs. Crank, con't

The builder subsequently asked the agent, Grove Crank, what happened to the offer. Crank responded that he would not deal with certain minorities and disliked racially mixed couples. Both the purchasers and the builder filed discrimination lawsuits against both Crank and his principal broker. The broker was ultimately found liable for the actions of the agent.

Personal Baggage



Putting the Fair Housing Puzzle Together



Breaking down Federal Fair Housing Law

- CIVIL RIGHTS ACT OF 1866
 - Prohibits discrimination based on race or color.
- FEDERAL FAIR HOUSING ACT OF 1968
 - Contained in Title VIII of the 1968 Civil Rights Act
 - Prohibits discrimination based on race, religion, or national origin.
- THE 1974 AMENDMENT TO THE FEDERAL FAIR HOUSING ACT
 - Added sex(gender) as a protected class.
- THE 1988 AMENDMENT TO THE ACT
 - Added disability and familial status(the presence of children).

The Federal Protected Classes

- Race
- Color
- Religion
- National origin
- Sex or gender
- Disability
- Familial status

Prohibited Acts

- Refusing to sell, rent, or negotiate with any person based upon their inclusion in a protected group.
- Advising a potential purchaser or tenant that a property is not available based upon the individual's inclusion in a protected group.
- Changing the terms, conditions or services for different individuals based upon their inclusion in a protected group.
- Advertising in any form a discriminatory intent.
- Steering-making choices for purchasers or tenants based upon their inclusion in a protected group.

Prohibited Acts

- Blockbusting—inducing property owners to sell or rent by suggesting of the prospective entry into the neighborhood of persons of a particular race, color, religion, etc. will negatively affect property values.
- Redlining--denying loans or offering different loan terms based upon applicant's inclusion in a protected class.
- Denying membership or participation in a MLS or a Real Estate Broker Organization based upon the applicant's inclusion in a protected class.
- Coercing, intimidating, threatening, or interfering with any person in exercising these rights as it applies to homeowners, landlords, buyers, renters, brokers, sales agents.

NYS Fair Housing Law Provides:

- Prohibits discrimination in the sale, rental or lease of housing accommodations on the bases of:
 - Age
 - Martial Status
 - Sexual Orientation
 - Military Status
 - Gender Identity
 - Domestic Violence Victim Status
- Westchester County Human Rights Commission
 - Founded in 1999 and provides additional legal protections (beyond NYS law) based upon: alienage, citizenship status, or Source of Income

National Association of REALTORS Code of Ethics

- ARTICLE 10 PROVIDES:
 - REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (Amended 1/14)
 - REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. (Amended 1/14)

Lets Talk Advertising

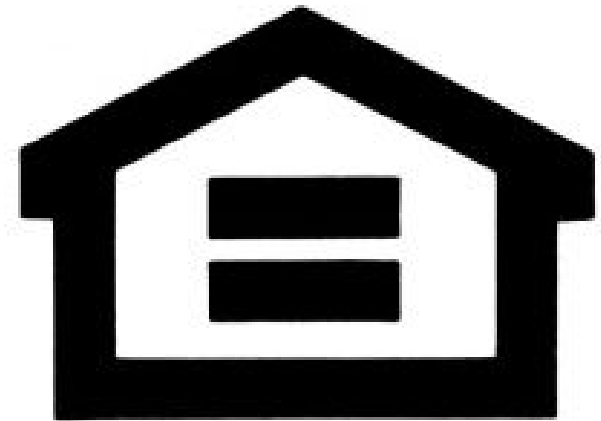
- WHAT CONSTITUTES ADVERTISING?
 - Print advertising
 - Brochures
 - Housing magazines
 - Direct mailers
 - TV and radio
 - Internet
- EXCLUSIONARY VS. INCLUSIONARY ADVERTISING
 - Target advertising

Advertising trapdoors

- USE OF LANGUAGE
 - Danger words
 - “No children”
 - “Singles preferred”
 - “Mature neighborhood”
- USE OF MODELS
- DESCRIBE THE PROPERTY, NOT THE SELLER, COMMUNITY, SCHOOLS, ETC.

Fair Housing Logo

- Should include logo and/or slogan in all display ads and classified ads of 6 column inches or more.
- Should include logo and/or slogan in marketing.
- Display HUD Fair Housing Poster in visible location in office .



Equal Professional Service Model

Using
Systematic
Procedures

Do I have
Objective
Information

Has the
Consumer Set
the Limits

Offer a Variety
of Choices

**If no to any of these questions,
START AGAIN!**

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graph LR; A[Using Systematic Procedures] --> B[Do I have Objective Information]; B --> C[Has the Consumer Set the Limits]; C --> D[Offer a Variety of Choices]; D --> E[If no to any of these questions, START AGAIN!]; E --> A;
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The diagram illustrates a four-step process for the Equal Professional Service Model. The steps are: 1. Using Systematic Procedures, 2. Do I have Objective Information, 3. Has the Consumer Set the Limits, and 4. Offer a Variety of Choices. Each step is contained within a dark grey rounded rectangle. Small orange arrows connect the steps in a linear sequence from left to right. Below the sequence, a larger orange arrow points from the text 'If no to any of these questions, START AGAIN!' back to the first step, 'Using Systematic Procedures', indicating a feedback loop.

Using Systemic Procedures

- MUST BE CONSISTENT
 - Use of equal service report forms
 - Tracking properties shown
 - Maintaining contact
 - Qualifying procedures
- ARE FORMS CONSISTENT THROUGHOUT THE OFFICE?
- IS THE USE OF FORMS CONSISTENT THROUGHOUT THE OFFICE?

Obtaining Objective Information

- WHAT ARE EXAMPLES OF OBJECTIVE CRITERIA?
 - Price
 - Property style
 - Number of bedrooms
 - Taxes
 - Specific school district
- WHAT ARE EXAMPLES OF SUBJECTIVE CRITERIA?
 - “Good neighborhood”
 - “Safe neighborhood”
 - “GOOD SCHOOLS” vs. “BAD SCHOOLS”

Has My Customer Set the Limits

- How have you determined the properties you are showing the purchaser?
- If no preferences have been stated, are you offering alternatives?
- Are you documenting the choices?
- Are you dealing with unintentional assumptions?



Offer a Variety of Choices

- Most consumers want to have a variety of choices for comparison purposes.
- Stay current with new listings to make sure that they are offered to the prospective purchaser if they meet the buyer's criteria.
- If you have an internal database, especially concerning rentals, make sure it is updated and accessible to all affiliated agents.

The Benefits of Record Keeping

- Creating a prospective purchaser database.
 - Lets you keep track of more detail concerning the purchaser that you might not remember
- Records follow-up showings and information.
- Creates a more organized approach to dealing with prospects.
- Provides a defense against allegations that fair housing laws have been violated.

The Role of Diversity in Fair Housing Training

- Emphasize the economic benefits of offering services to diverse communities.
- Review communication styles and techniques.
- Learn the courtesies and social norms of different nationalities in your market area.
- Develop marketing plans for reaching more diverse consumers.

Fair Housing Enforcement

- Complaints can be filed with HUD up to one year after the alleged act occurred.
 - If a HUD administrative law judge finds a violation, the responsible party can be forced to:
 - Compensate you for actual damages, including humiliation, pain and suffering.
 - Provide injunctive or other equitable relief, for example, to make the housing available to you.
 - Pay the Federal Government a civil penalty to vindicate the public interest.
 - The maximum penalties are \$16,000 for a first violation and \$70,000 for a third violation within seven years.
 - Pay reasonable attorney's fees and costs.
- NOTE: In fair housing lawsuits (as opposed to administrative complaints) brought to federal court, there is no dollar limit on damages.

Dealing With Sellers/Landlords Who Intend to Discriminate

- When a seller/landlord asks the race, nationality, religion, etc. of a prospective purchaser/tenant, how do you respond?
- If a seller refuses to consider a viable offer from a prospective purchaser without any feedback, and the offer is from a minority purchaser, what do you do?
- If a landlord expresses a desire to limit the number of occupants for a two bedroom apartment to no more than three tenants, what do you do?
- When the landlord asks for the names and ages of any children, what do you do?

Dealing with Buyers/Tenants

- If the prospective purchaser you are working with asks about the racial background of the property next door to the house you just showed, what do you do?
- If the prospective purchaser asks you if there are any group homes in the vicinity of the property you just showed, what do you do?
- If a prospective tenant asks you to only show properties that are within walking distance to a specific place of worship, what do you do?

Emphasize the Importance of Fair Housing

- Talk about fair housing when first meeting with prospective sellers and buyers.
- Include a fair housing statement on listing agreements.
- Include fair housing information in listing presentations and prospective purchaser packets.
- Educate the consumer concerning their obligations under the fair housing laws.

Fair Housing Steps for Managers and Owners

- Talk about the importance of fair housing compliance in the recruiting process.
- Make fair housing training a key part of your indoctrination training.
- Have a written fair housing commitment policy in your office. Consider having your agents sign off on such a policy.
- Have office forms available to ensure consistent record keeping.
- Have ongoing annual fair housing training for all agent — regardless of experience.
- Consider compliance tools.
- Be constantly vigilant to possible problems which may surface in the office.
- Don't put your head in the sand!

Additional Resources

www.realtor.org

www.hud.gov

www.fairhousing.com

Fair Housing Information Clearinghouse

– 800-343-3442

