

Reading **Between** the Lines

Introduction

The purpose of these guidelines and statement of policy is to advise the public of words, phrases, symbols and the like which are impermissible under the Pennsylvania Human Relations Act (PHRA) when used in housing or commercial property advertisements.

In addition, they are a guide to advertisers and publishers in their efforts to insure that any housing advertisements published or caused to be published by them do not violate the PHRA.

These guidelines and statement of policy also contain examples of types of conduct, which constitute reasonable efforts to comply with the advertising provisions of the PHRA such that a finding of knowing and willful violation of the portions of the PHRA is precluded.

The PHRA states that it is an unlawful discriminatory practice to:

Print publish or circulate any statement or advertisement (i) relating to the sale, lease or acquisition of any housing accommodation or commercial property or the loan of money whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property which indicates any preference limitation, specification or discrimination based upon race, color, familial status, age, religious creed, ancestry, sex, national origin, disability or because of the disability of an individual with whom the person is known to have a relationship or association, or (ii) relating to the sale, lease or acquisition of any housing accommodation or commercial property which indicates any preference, limitation, specification or discrimination based on the use of a guide or support animal because of the blindness, deafness or physical disability of the user or because the user is a handler or trainer of support or guide animals.

Definitions

Housing Accommodation:

Includes:

(1) any building, structure, mobile home site or facility either intended to be or used and occupied as the home residence or sleeping place of one or more individuals, groups or families whether or not living independently of each other; and,

(2) any vacant land offered for sale, lease or held for the purpose of constructing or locating any building, structure, mobile home site or facility. The term "housing accommodation" shall not include any personal residence offered for rent by the owner or lessee, or by his or her broker, salesperson, agent or employee.

Personal Residence:

a building or structure containing living quarters either intended to be or occupied by no more than two individuals, two groups or two families living independently of each other and used by the owner or lessee as a bona fide residence for himself and any members of his family forming his household. This provision applies to any "person."

Person:

one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees in bankruptcy or receivers. This definition also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, agent, employee, independent contractor, lending institution and the Commonwealth of Pennsylvania, and all political subdivisions, authorities, boards and commissions.

Advertising/Advertisement:

any advertisement and any similar written, printed, taped or broadcast communication, notice statement which is published, printed, circulated, issued, displayed, posted or mailed for the purpose of promoting housing activity, including, but not limited to, rentals, leases and sales.

Advertiser:

any person who places, publishes, broadcasts or otherwise distributes an advertisement or advertising.

Housing for Older Persons: is housing

- provided under any federal or state program that the PHRC determines is specifically designed and operated to assist elderly persons as defined in the federal or state program;
- is intended for and solely occupied by persons 62 years of age or older; or,
- is intended and operated for occupancy by at least one person 55 years of age or older per unit.

In determining whether housing qualifies as housing for older persons under this clause, the PHRC's requirements shall include, but not be limited to, the following:

- at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit.
- there is publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- the housing complies with regulations declared by the PHRC for verification of occupancy.

General Rules

The guidance and the list provided in these guidelines and statement of policy, which follows does not contain every possible word and phrase that may violate the PHRAct. Its purpose is to provide as complete a list as possible and to provide guidance on how to recognize the type of language that may be violative of the PHRAct.

It is clear that there are many commonly understood and offensive words and phrases that are used to describe groups of people. While the PHRC has no intention of attempting to list all of these, suffice it to say, they are not to be used in housing advertisements.

The general rule of thumb, which will help ensure that classifed advertisements meet the requirements of the PHRAct and all fair housing laws is:

Always describe property; never describe people.

Guidelines and Statement of Policy By Protected Class

This guidance is broken down by words and phrases which may indicate a preference, limitation, specification or discrimination for a particular protected class when used in connection with an advertisement involving a real estate transaction.

Race/Color/National Origin

Real estate advertisements should state no discriminatory preference or limitation on account of race, color or national origin. Use of words describing the current or potential residents or the neighbors or neighborhood in racial or ethnic terms will create liability under the PHRA Act.

White, black, brown, yellow, red or any color used to describe a person or group of people must be avoided in order not to indicate a preference or discrimination. The use of a color for any other reason, for example to describe property, is, of course permitted.

For the same reason, the use of a nationality or race in referring to an individual in relation to any real estate transaction, such as Caucasian, Negroid, Chinese, Asian immigrant, French, Hawaiian, Arab, Oriental, African American, Irish, etc., is prohibited. The use of such words to describe property, for example French doors or oriental rugs, is permitted.

In order that a preference is not shown for a particular nationality or race, the use of landmarks or organizational locations which are indicative of a particular nationality or race should be avoided, unless all such landmarks in the area are noted. For example, if proximity to a specific place of worship commonly associated with a particular ethnic group is noted as a directional landmark, reference should be made to all other nearby comparable facilities of interest to other groups.

Code words, in certain contexts, have historically been used to signal whites that a neighborhood is restricted to whites. Such phrases as “restricted”, “exclusive”, or “traditional” are such terms and, depending upon the common understanding in the geographical area of that area, may be intended to be discriminatory and should be avoided in classified advertisements.

Some words or phrases can be “code words”, which, based upon past practices, connote neighborhoods of a certain race or ethnic group or in which certain races or ethnic groups are not welcome.

For example, an ad stating that a property was right next to a specifically named country club that has historically barred minorities from membership would signal both minorities and non-minorities of a segregated neighborhood. Because well-known segregated sites tend to be local, a comprehensive list is impossible. Local advertisers are aware of such localities and should steer clear of their use in describing locations in classified advertisements.

Familial Status/Age

The most common area in which problems occur in classified advertising is that of familial status. Unless the property is “Housing for Older Persons”, it is unlawful to discriminate against families with children in the household or based upon age 40 and over.

Thus, phrases which note a preference for adults, couples or singles or families without children or use colloquialisms to imply the same thing such as “empty nesters” or “honeymooners” are unlawful.

The number of children allowed should not be listed, although the number and/or size of rooms and/or bedrooms is permissible. (Remember: describe the property, not the people!).

While the PHRA Act allows the landlord to establish reasonable occupancy standards, the standards must be applied in a nondiscriminatory manner and cannot violate the Federal Fair Housing Act.

A classified ad may indicate that a housing complex meets the requirements for “housing for older persons”. A publisher may reasonably rely on the advertiser’s representations. However, if the complex does not, in fact, meet the requirements, the complex and the person or organization who placed the advertisement will be liable. In the instance where the publisher reasonably relied on those representations, he or she would not be liable.

A newspaper/publisher may publish an advertisement for housing, and be held harmless for liability for an advertisement which uses the terms “senior housing”, “senior community”, “retirement housing” or “retirement community”, if the advertiser provides a statement formally, in writing, to the newspaper/publisher that the property being advertised meets the requirements for housing for older persons as defined in the Pennsylvania Human Relations Act. Equivalent phrases referring to persons 55 and 62 and older such as “adult community, 55 and over”, “adult community, 62 and over” “adult 55+”, “adult 62+” to describe “housing for older persons”, will also be acceptable. The term “adult” alone or with terms that do not meet housing for older persons requirements will remain unlawful terms as a description of housing for older persons.

Disability

It is acceptable to describe housing as accessible to persons with disabilities. It is not acceptable to attempt to limit the housing to certain persons by stating that it is not accessible.

Religion

Advertisements should not contain either an explicit or implicit preference, limitation or discrimination on account of religion such as “Christian home”, “no Jews.”

In general, the use of religious landmarks may indicate a preference and should be avoided. For example, “near parochial school” or near “a temple”, may signal a preference in the real estate transaction for a person of that specific faith.

Sex

Advertisements should not contain an explicit preference, limitation or discrimination on account of sex. However, under the provisions of Act 34 of 1997, an advertisement for the rental or leasing of housing accommodations in a single-sex dormitory or rooms in one’s personal residence in which common living are shared may indicate a preference, limitation or discrimination on account of sex.

List of Words or Phrases to Avoid

This list does not contain every possible word and phrase that may violate the PHRA. Its purpose is to provide as complete a list as possible. For example, while many nationalities, types of disabilities and races are mentioned, the list is not inclusive. Any word indicating ancestry, race, color, religion or disability is equally prohibited in the context of real estate advertisements. This list will provide guidance on how to recognize the type of lan-guage that may be violative of the PHRA. (When the context of the word or phrase is key to its possible unlawful meaning that will be noted.)

Words To Be Avoided

A

Able bodied
 Adult - if the housing is “housing for older persons”, it is appropriate to say so. However, the term “adult” standing alone is not appropriate as this word implies a restriction different than 55 and over or 62 and over, which are the two types of housing for older persons allowed as “housing for older persons”. Any other restrictions based upon age or which has a disparate impact upon families with children will violate the age or familial status provisions of the PHRAct.

Equivalent phrases referring to persons 55 and 62 and older such as “adult community, 55 and over”, “adult community, 62 and over” “adult 55+”, “adult 62+” to describe “housing for older persons”, will also be acceptable. The term “adult” alone or with terms that do not meet housing for older persons requirements will remain unlawful terms as a description of housing for older persons. (See the Definitions section).

African-American
 Asian
 American
 Ancestry (any)

B

Black
 blind
 Buddhist

C

Catholic
 Caucasian
 Chicano/Chicana
 child/children - restrictions - unless “housing for older persons”
 Chinese
 Christian
 church, near
 color (any when used to describe person(s))
 colored
 couple
 crippled

D

deaf
 disability - (any) It is acceptable to describe housing as accessible to persons with disabilities. It is not acceptable to attempt to limit the housing to certain persons by stating that it is not accessible.
 disabled

E

empty nester
 ethnic neighborhood
 ethnic group (any)

F

foreigners

H

handicapped
 Hindi
 Hispanic

I

ideal for ... (a type of person)
 immigrants
 independently, capable of living

Indian
 integrated
 interracial
 Irish

J

Jew/Jewish

L

Latino/Latina

M

mentally handicapped, ill, retarded
 Mexican-American
 Middle Eastern(er)
 minority
 mixed community
 Mormon
 Moslem
 mosque, near
 Muslim

N

Nationality (any)
 newlyweds

P

parish, near
 perfect for... (a type of person)
 Polish
 prefer
 Protestant
 Puerto Rican

R

race (any, when used to describe a person)
 religion (any, when used to describe persons)
 retarded
 retired persons, retirees (*if it is “housing for older persons”, use that phrase, as*

Words To Be Avoided

many people who are retired may not qualify for housing for older persons while many people still working may be eligible for housing for older persons. "Retirement community/housing" may be used, if the advertiser provides a statement formally, in writing, to the newspaper/publisher that the property being advertised meets the requirements for housing for older persons as defined in the PHRAct.)

S

segregated
senior (Use "housing for older persons"- see note under adult and retired persons - many people who do not consider themselves senior may be eligible for housing for older persons. "Senior community/housing" may be used, if the advertiser provides a statement formally, in writing, to the newspaper/publisher that the property being advertised meets the requirements for housing for older persons as defined in the PHRAct.)

suitable for
synagogue, near

T

temple, near

W

White

Y

young
youthful

Please note: Any of the words listed here may, of course, be used if they are part of an address. For example: Poplar Church Road, Lutheran Street, Churchville, Black Ridge, or Indian Hills, etc. are permissible.

Examples of Advertisements Considered Unlawful by PHRC

The following are some examples of phrases in classified housing advertisements for which complaints have actually been filed with the PHRC and are considered in violation of the PHRAct.

Familial status

"adult atmosphere"
"mature adults preferred"
"great for retired couple or couple just starting out"
"no kids, pets okay",
"perfect for empty nesters"
"couples only"
"separate building for adults"
"1 or 2 adults"
"adult/family sections"
"ideal for singles"
"adult community"
"responsible young adults in a quiet senior citizen community"
"suitable for one or two adults"

Sex

"males only need apply"
"professional male preferred"
"perfect for single female"

Religion

"Surround yourself with Christian neighbors"

Additional Requirements

Advertisements published within this Commonwealth are covered by these regulations regardless of the locality of the property or financial institution.

When an advertising campaign includes pictures of individuals or families, the advertiser has the responsibility to alternate the picture from time to time to include a variety of protected classes in the advertisement.

Exemptions Which Do Not Apply to Advertising

There are situations that are exempt from coverage under the PHRAct. For example, the PHRC has no jurisdiction over cases involving the rental of an owner-occupied duplex. However, under both the PHRAct and the Federal Fair Housing Act, it is unlawful to advertise any discrimination. Therefore, it is unlawful to advertise no Blacks, no children, or any of the other words or phrases described above, even for an exempt property.

What Constitutes Good Faith Efforts on the Part of Advertisers?

An advertiser who knowingly and willfully violates this act may be penalized under Section [95] 9(f)(2) and (f.1). It shall be an affirmative defense precluding a finding that an advertiser has knowingly and willfully violated this act if an advertiser has either:

- (1) Attempted, in good faith, to comply with the list and specific examples of impermissible housing advertisements; or
- (2) Complied with an interpretation of the Commission or its personnel concerning what constitutes appropriate housing advertisements.

It shall also be an affirmative defense precluding a finding that an advertiser has knowingly and willfully violated the PHRAct if an advertiser has made reasonable efforts in good faith to comply with the Act.

With regards to an advertisement for “housing for older persons”, a person shall have acted in good faith if the housing provider has provided the advertiser a signed, written statement which states that the facility or community complies with the requirements of the housing for older persons exemption and the advertiser has no actual knowledge that the facility or community is not actually eligible for such exemption.

If the word or phrase complained of is in compliance with the above list and is not, on its face, discriminatory within the context of the advertisement, the advertiser shall be deemed to have acted in good faith.

If the advertiser is told by a PHRC staff person that the language complained of is legal, within the same context in which the advertiser requested the opinion from the staff person, the advertiser will be deemed to have acted in good faith.

Such advice will be reduced to writing by the staff person and provided to the advertiser and maintained on file with the Commission.

Questions Regarding Advertisements

Questions regarding advertisements are to be directed to the:

Housing and Commercial Property Director at (717) 787-4055 or the Assistant Chief Counsel for the Housing and Commercial Property Division at (717) 783-8132.

You may also write either of these two individuals at PA Human Relations Commission, 301 Chestnut Street, Suite 300, Harrisburg, PA 17101-2702.

Email the Housing and Commercial Property Director @ rcartwrigh@state.pa.us.

The Text Telephone number is (717) 783-9308 and the fax number is (717) 772-4340.



Who Can I Turn to for Help?

If you believe that you have been the victim of discrimination because of a disability, you may discuss your concerns with a Commission staff member who will answer your questions and help you decide whether you should file a complaint with the Commission.

The Commission is available to help you draft the wording of the complaint and prepare it in legal form for your verified signature. Before you sign the complaint, make sure that it is an accurate account of what happened to you, to the best of your knowledge and belief. This is important, because Pennsylvania law provides penalties for persons who knowingly file false complaints.

If federal law also covers your complaint, Commission staff will dual-file your complaint for you with the appropriate federal agency, if you wish. PHRC is a state agency. There is no charge for its services.

You must file your complaint with the PA Human Relations Commission within **180 days of the alleged act of discrimination**. You have the right to be represented before the Commission by a private attorney, if you so desire, but you may proceed without an attorney.

For more information

Contact the Pennsylvania Human Relations Commission for additional information or to begin the process of filing a complaint.

Pittsburgh Regional Office

11th Floor State Office Building
300 Liberty Avenue, Pittsburgh, PA 15222
(Voice) (412) 565.2798 / (Text Telephone) (412) 565.5711

This office serves the following counties: Allegheny, Armstrong, Beaver, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren, Washington and Westmoreland.

Harrisburg Regional Office

Riverfront Office Center, 1101-1125 S. Front Street,
5th Floor, Harrisburg, PA 17104-2515
(Voice) (717) 772.2485 / (Text Telephone) (717) 787.7279

This office serves the following counties: Adams, Bedford, Berks, Blair, Bradford, Cambria, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York.

Philadelphia Regional Office

110 North 8th Street, Suite 501
Philadelphia, PA 19107
(Voice) (215) 560.2496 / (Text Telephone) (215) 560.3599

This office serves residents in the following counties: Bucks, Chester, Delaware, Montgomery and Philadelphia.

