

Fair Housing

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2010 New Member
Orientation



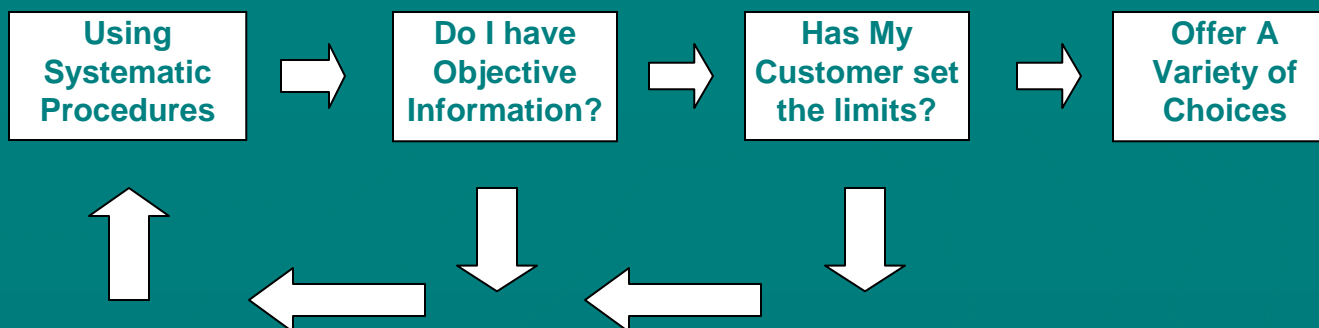
Agenda

Housing and the Law

- ▶ *Objectives of the Program*
- ▶ Increase the Consistency (standards of service) with all Brokers in Real Estate
- ▶ Comply with Fair Housing Laws, Federal, State and local
- ▶ **Equal Professional Service Model**
- ▶ Agent record keeping
- ▶ Standard office policy / procedures
- ▶ Outsourcing statistical data requests
- ▶ **Perception of Unequal Treatment**
- ▶ Indifference of service providers (Duty Agent/Realtor)
- ▶ Agent's failure to educate the customer
- ▶ Cultural differences
- ▶ **Fair Housing Case Studies:**
- ▶ Hendrickson vs. Yarmouth Realty
- ▶ Pardoe & Graham and the experience of the 3 testers
- ▶ \$160,000 Wright vs. Wheaton Place Joint Venture
- ▶ more recent cases
- ▶ **Questions and Answers session**
- ▶ Eight Real-Life Fair Housing Violations

EQUAL PROFESSIONAL SERVICE MODEL

"Record Keeping"



A Record Keeping System will:

- ▶ Keeps the Agent better Organized with documentation
- ▶ It will help you to earn more money as it creates an Agent Customer/Client master data base
- ▶ Provides a Fair Housing Defense with customer records / documentation / proof of past services

EQUAL PROFESSIONAL SERVICE CHECKLIST

- (1) Each Office/Broker should have a policy / "procedures" concerning the treatment of customers/clients during their "initial contact" with your firm.
 - ▶ Hospitality (greetings, refreshments, etc.)
 - ▶ Explaining the services offered by your firm relative to their needs Agency / Disclosure of Services
 - ▶ Paperwork issued to a customer the on 1st office contact
 - ▶ Obtain initial prospect information
 - ▶ Keeping the records of these contacts
 - ▶ Follow up each Customer/Client contacts

(2) Obtain objective information regarding the prospects/customer "needs and wants".

For example:

- ▶ Identifying the "objective needs" of the customer such as the price, the size, the features, special needs, and the housing location.
- ▶ Responding to "subjective" requests of the customer to elicit back "objective" criteria to service the customer.
- ▶ Does my customer know what they are "financially qualified" to buy or lease?

(3) Let the customer set the limits in the housing search.

- ▶ Provide prospective buyers & renters with complete and accurate information on the availability of housing, alternative methods of financing, and other facts affecting the choice of location.
- ▶ Allow the prospect to make the choices in: features in a home, price, financing options, communities or areas.

(4) Offer the customer a variety of choices

- ▶ The housing locations options
- ▶ Offer alternatives to all the prospects

▶ (5) MAINTAIN GOOD RECORD KEEPING FOR ALL PROSPECTS AND INQUIRIES

▶ Housing locations requested

▶ Housing options and alternatives offered

▶ Services provided to the customer

▶ (6) Brokers should establish a method of monitoring and evaluation services -- customer survey or a third party testers.

Fair Housing is Good Business for everyone.

- - Remember never limit your customer's choices.
- - Never second guess your customer's wants in housing.
- - Always allow your customer to set the limits in their housing choices.

Steering

Steering has been defined as an illegal manipulation of a housing market. Example – steering occurs when a buyer is influenced either directly or indirectly for racial reasons in the choice of housing.

---- Keep your personal opinions of “good” or “bad” quiet!

Dialogs:

- - What is the make up of the neighborhood?
- - How are the schools?
- - What about crime here?

Be ready to respond to such questions by referring the person to a third party source - local government offices – city hall, planning departments, census bureau, school administration offices, local police departments, and other numerous web sites. Any different response and it could be misinterpreted and could be considered illegal under the Fair Housing Laws.

Your Error & Omissions Insurance may not cover Fair Housing Discrimination Violations.

FEDERAL FAIR HOUSING LAWS

The Fair Housing Act of 1968

The Law prohibits discriminatory housing practices.

It is illegal to discriminate in the sale, rental or financing of housing based on **RACE, COLOR, SEX, RELIGION, NATIONAL ORIGIN, FAMILIAL STATUS (families with children under 18) or HANDICAP (mental & physical)**. Except for some limited exemptions, the 1968 Law, with amendments that took effect in 1989 covers all residential housing.

NOTE: Intent to discriminate generally does not have to be shown.

The Civil Rights Act of 1866

This law prohibits **RACIAL** discrimination in the purchase, sale or rental of real and personal property. There are no exemptions in this Law. The Supreme Court has recently held that this Law's protections may apply to certain ethnic and religious groups.

Virginia Fair Housing Law

Prohibits discrimination in the sale, rental or financing of residential housing based on **Race, Color, Sex, Religion, National Origin, Familial Status, Elderliness and Handicap**. Like the Federal Fair Housing Act, there are a few Limited exemptions.

Commonwealth of Virginia

Elderliness (persons who are 55 years old or above)

Prince William County

Marital Status: unmarried person may not be denied sale or rental housing on the basis of their status: married, divorced, widowed, or single.

Protected Classes: Local

- Children
- Marital Status
- Ancestry
- Age
- Sexual Orientation

Exemption from Federal Fair Housing Laws:

- Owners who own less than four houses & live in one
- Owners renting without a REALTOR
- Owners who do not **advertise** rental availability

NEVER allowed to discriminate on Race!

Familial Status:

- -person with individuals younger than 18, living with a parent or legal guardian
- -person who is pregnant or in the process of securing legal custody of a child.
- -person with a "designee" having written custody -- can be anyone outside of the family

Who is liable?

The real estate firm, broker, owner, management company and even the investors in the property can be sued under the Federal Fair Housing Laws if an Agent is found to have discriminated.

All parties can be held liable in Court.

Testing

Testers are person who pose as actual home seekers to see how they are treated by a particular Agent or Real Estate Firm.

If a minority tester is not given truth full information about the **availability of a property**, then there may be a violation of the Fair Housing Act.

Testing is not an entrapment, nor can you sue a Tester for taking up your time.

It is virtually impossible to spot a Tester.

The only real way to prevent running into trouble with a tester is to know the Fair Housing Law and your responsibility under it.

Past Testing 2000 - Prince William County

- -50 Real Estate offices were tested by the PWC Housing office.
- -The test results indicated a new concern a “weak link” in many of the Real Estate offices.
- -The front duty desk where the office had a (non-realtor) receptionist present.
- -Recommendations were made by from the tests to the Brokers to increase training of the front desk office personnel into the office policy/procedures and Fair Housing laws.

Of the 50 tests conducted, 4 tests revealed a difference of treatment between the minority (Black or Hispanic) and the White testers. The 4 real estate offices were later re-tested to determine if a difference of treatment resulted again. ...”the tests results establish that a heightened consciousness of fair housing exists in the real estate industry in Prince William...testing experiences generally reflect a remarkably consistent pattern of fair housing compliance.

Fair Housing & People With Disabilities:

1988 Federal law requires public and private owners and operators of housing to change any policies and practices that exclude people with disabilities

Handicap:

- ▶ (1) A person who has a physical or mental impairment (including, but not limited to, hearing mobility, visual impairments, chronic alcoholism, chronic mental illness, AIDS and AIDS related complex, and mental retardation) that substantially limits one or more "major life activities".
- ▶ (2) A person who has a "record" of such impairment,
 - ▶ one who is retarded as having such impairment, physical disability, epilepsy, cerebral palsy, use of a walker or wheelchair, service animal, or personal-care attendant,
 - ▶ if you have a record of disability or currently under treatment for same -- Alcoholics, in treatment or not, are covered, as well as those who have completed a drug-rehab program and those who use prescription drugs at a doctor's direction. ----- not covered if you use drugs illegally.
- ▶ (3) A person who is "regarded" as having such impairment.

"Major life activities" means functions such as caring for one's self, performing manual task, walking, seeing, hearing, speaking, breathing, learning and working.

Owners and Agents should never ask about a persons' disability.

Agents should always feel free to ask "Do you have any special needs in your housing".

Reasonable Modifications:

- - changes must be requested by the person
- - the modifications must be practical & feasible
- - all modification costs are paid by the tenant
- - owner has the right to approve the plans, the contractor, and the quality of work

Changes which will not be acceptable to future tenants must be returned to their original state at the tenant's expense upon expiration of the lease or termination of tenancy.

Physical Changes must be allowed by the Owner as long as:

- ▶ - The changes will be acceptable for future use
- ▶ - The tenant will incur the cost of modification
- ▶ - The tenant will restore when they vacate

Owner has the right to require money to be placed into an escrow (not a security deposit) to ensure that the property will be restored to its original condition.

GULF WAR VETERAN DENIED HOUSING

Pamela Hendrickson, Petty Officer 2nd Class in the U.S. Navy, came to work in Washington as a News Videographer for the Chief of Naval Operations after completing a tour of duty in Saudi Arabia photographing Gulf War Casualties.

Petty Officer Hendrickson has served in the Navy for almost ten years, and her successful career has been motivated by a deep belief in honoring and upholding the basic principles upon which our country was founded: national sovereignty, the rule of law, and personal freedom. Yet when Pamela Hendrickson arrived in the Nation's Capitol, she found that some of the very principles which she had been defending abroad were not being respected here at home.

Pamela Hendrickson first contacted Yarmouth Realty during the course of her housing search in Washington. (1993) After seeing the company's signs in front of some buildings in the Capitol Hill area, Pamela called to inquire about the availability of apartments. The Yarmouth agent with whom she spoke faxed Pamela a list of available units and agreed to meet with her the following day to see some of them. **However, when the agent met Pamela, she indicated that none of the units in which Pamela was interested were available; the agent proceeded to show Ms. Hendrickson other apartments which did not appear on the listing sheet. Those units were in poor condition and were located in predominantly black sections of Capitol Hill.**

Ms. Hendrickson inquired again about one of her original choices, and the agent finally took her to see it – even though she had previously said that it was unavailable. Ms. Hendrickson placed an application fee on that apartment, and was told that it would take a day to process her application. When she called back to inquire about the status of her application, the agent told Pamela that there were some problems, and requested the phone numbers of Pamela's previous landlords. Pamela told the agent that she would bring that information the following day.

When Ms. Hendrickson returned to Yarmouth Realty, **she was told that the apartment had been rented to some friends of the owner. However, she noticed that the daily listing sheet posted in the Yarmouth office still listed that apartment, as well as the other units she had wanted to see, as available.**

Pamela continued to stop by the Yarmouth office on occasion to pick up the daily listing sheet, and even after two weeks, the units which she had originally requested to see, as well as the apartment for which she had applied but was told had been rented, were still listed as available! Pamela Hendrickson decided to find an apartment on her own – she also got in touch with the Fair Housing Council.

Testing conducted by the Council helped to produce evidence of discriminatory behavior on the part of Yarmouth Realty.

- The black tester was given a daily listing sheet (by the same agent who had serviced Ms. Hendrickson) on which the agent scratched out two of the listings, saying that they were no longer available. The agent then showed the black tester three other units.
- Less than an hour later, the same agent recommended one of the “unavailable” units to the white tester. She also mentioned to the white tester that a third, available apartment which she had shown earlier that morning, was not as nice as the two units which she would show him.

Coupled with Pamela Hendrickson’s allegations of discrimination, the testing results show that Yarmouth Realty withheld and misrepresented information about the availability of housing. This type of behavior is illegal under the Fair Housing Act. **Also illustrated in the Yarmouth case is the illegal practice of steering, whereby an agent encourages whites to live in white neighborhoods, Hispanics to live in Latino neighborhoods, and African Americans to live in black neighborhoods, etc.**

By withholding information about the availability of housing, and by showing Pamela Hendrickson only units which were located in a predominantly black neighborhood, the agent for Yarmouth Realty violated the Fair Housing Act and promoted the segregated living patterns which are so prevalent in our communities. Pamela Hendrickson and the Fair Housing Council filed a civil complaint against Yarmouth Realty in the District of Columbia on August 9, 1995.

Racial discrimination continues to be the most prevalent form of discrimination in housing – despite all the efforts being made on the part of government, private fair housing groups and industry to ensure equal housing opportunity, some people are just not “getting it”. The persistence of housing discrimination, evidenced by cases such as Hendrickson v. Yarmouth Realty, highlights the continuing need for private enforcement activities.

As David Berenbaum, Executive Director of the Fair Housing Council of Greater Washington explains, “Racial discrimination against military personnel serving our nation in the Washington Metropolitan area is abhorrent, but all too prevalent. It demonstrates why testing is so necessary; testing uncovers the subtle discrimination that is often hidden beneath the representation of compliance with the law.”

The Fair Housing Council of Greater Washington, Fall 1995

HENDRICKSON VS YARMOUTH MGT COMPANY

Yarmouth Management Co. has agreed to pay the Fair Housing Council of Greater Washington and Navy Petty Officer Pamela Hendrickson \$150,000 to end a two-year-old case in which the Capitol Hill-based property management firm was accused of violating fair housing and civil rights laws.

In settling the case, the company denied any wrong doing but has agreed to be monitored by the housing council and send their employees to training classes about the requirements of the fair housing and disabilities laws.

The housing council is a nonprofit group that monitors realty firms' compliance with the fair housing law. Black volunteers for the council, acting as fair housing testers, corroborated Hendrickson's experience and also were sent to a predominately black neighborhood, said David Berenbaum, the housing council's executive director.

"This case shows that discrimination is going on and going on right in the back yard of the Capitol," said John Relman, an attorney for the Washington Lawyers Committee for Civil Rights and Urban Affairs, which represented the housing council and Hendrickson. "This is the neighborhood everybody assumes is integrated, but people forget discrimination can happen in integrated neighborhoods."

Yarmouth officials chose to settle the case rather than incur the high legal costs associated with defending it. The firm must pay Hendrickson and the council \$30,000 annually for the next five years, which Waller said will be a financial strain for Yarmouth.

Waller said Yarmouth officials accepted Hendrickson's application for the apartment in question. But the company later had to tell her she couldn't have the apartment because the owners had already rented it to another tenant and hadn't yet notified Yarmouth. "We couldn't remotely afford to defend this suit and risk losing even though we felt we never engaged in discrimination right from the beginning," Waller said. "We had time after this all started to look into the facts and realize there was not any steering going on at all." Waller said it would be difficult to defend itself against the findings of the housing council testers because the office handles about 50 to 60 appointments each week with people searching for apartments. "There is no way you can record what you say to every single person – whether white or black. How do you refute something like that?" he said.

DISABLED MAN TO GET \$160,000 APARTMENT **Wheaton Realty Firm Settles Bias Lawsuit**

December 1994

A local real estate management firm yesterday agreed to pay a 62-year-old deaf and blind man \$160,000 in damages and provide him with a Wheaton apartment for life to settle a three-year-old federal lawsuit that alleged he was denied housing because of his disabilities.

Housing advocates said the damage award to Jack Wright, a part-time teacher at Gallaudet University, and the \$340,416 rental value of the two-bedroom apartment at the Wheaton Place complex may be the single largest payout to a disabled person in settling a housing discrimination claim.

They said it also focuses new attention on the discrimination faced by millions of disabled Americans who can function independently, but often encounter difficulties when searching for places to live. "I have been stressed and depressed for three years," Wright said in a recent interview.

“I refused to give up. I understand that the rental office didn’t understand about disabled people. But they should learn more about them.” “I am glad we fought discrimination against them, to show that civil rights are important,” said Wright, who plans to buy an elaborate computer system designed for the blind and deaf with his settlement money. He said he plans to move soon to the apartment.

The case, brought by the Fair Housing Council of Greater Washington in a suit filed in U.S. District Court in Maryland, alleged that Wright was denied a one-bedroom apartment in the Wheaton complex in violation of federal fair housing law. In settling the case, Wheaton Place and its employees denied any wrong doing and declined to comment on it. Michael Allen, a staff attorney for the Bazelon Center for Mental Health Law, said of the award: “For an individual case of discrimination on the basis of disability, \$160,000 and a free apartment is on the generous side.”

John P. Relman, who argued the case as director of the Washington Lawyers’ Committee for Civil Rights and Urban Affairs on behalf of the Fair Housing Council and Wright, described the settlement as “a historic first in the housing relief and the amount of money. A settlement like this is going to reach a lot of people with disabilities and landlords who have thought for one moment not to rent to them.”

The Fair Housing Act, amended in 1988 to protect disabled Americans, prohibits landlords or their rental agents from denying or steering anyone away from housing if they meet the income requirements and other terms included in a lease, according to David Berenbaum, executive director of the Fair Housing Council.

In addition, landlords must allow disabled tenants to make reasonable modifications to property, such as building a ramp or installing special devices, as long as the improvements don't violate safety codes, he said. Accusations of discrimination against the disabled in housing are the second most frequent complaint received by the Fair Housing Council, after allegations of race bias, Berenbaum said. "The level of ignorance or conscious disregard for the law is startling," he said. "This case illustrates the worst form of intentional discrimination. Jack Wright was capable of living independently and he was treated otherwise."

Wright planned to rent the one-bedroom apartment in Wheaton Place with a friend who is deaf, Stanley Corinski. Wright and Corinski visited the apartment with an interpreter and decided that the ground-level unit with a patio was ideal. But after filling out the application, the two men were denied the apartment because they were told they lacked the necessary income to qualify for it, according to court documents.

In a subsequent phone call, a transcript of which was available because it was made through a device used to communicate with the deaf and blind, Wright's interpreter, Jean Esquivel, told Wheaton Place managers that the two men were willing to pay a year's rent in advance, according to evidence in the case. Wright and Corinski had savings of \$12,000 and \$42,000, respectively. But the rental managers refused the payment, saying it would violate a Maryland state law prohibiting landlords from taking more than two months' security deposit upfront. The manager also told Esquivel the apartment complex didn't have handicapped facilities to accommodate Wright and Corinski. "Even if they have the money in advance, it doesn't matter," the complex's rental agent said in the phone call. "They don't qualify, simple as that. Plus we don't have the handicapped facilities."

In the settlement, the Fair Housing Council will monitor the complex for five years to make sure it advertises its units to disabled persons, trains its staff to avoid future housing discrimination and doesn't retaliate against Wright, Berenbaum said.

The Washington Post 1994

COMPLEX AGREES TO PAY \$100,000 FOR
REFUSING TO ACCOMMODATE DISABLED WOMAN

The owners and managers of Skylark Apartments, a Larkspur, California apartment complex, agreed to pay \$100,000 to settle a claim that resident managers discriminated against a tenant with a mental disability.

Joseph and Eda Pell, the owners of the 454-unit apartment complex; Julia Ellis, the complex's on-site manager; and Cindy Gray, Skylark's property manager, signed the settlement in late June after a federal lawsuit was filed by Joanne Karlsrud and Fair Housing of Marin, a private fair housing group in San Rafael, California.

Karlsruud filed suit after the complex managers told her that she could not keep her service dog at the complex. **Although Skylark Apartments had a “no pets” policy, the service dog was instrumental in treating Karlsruud disability.** Her doctor wrote a letter to the owners and managers of Skylark Apartments, explaining the need for a companion dog to help control her mental disability. **Although the need for the dog was documented, the managers at Skylark told Karlsruud that she needed to remove the dog or leave her apartment.**

Karlsruud contacted Fair Housing of Marin, claiming that the apartment managers had discriminated against her on the basis of her disability. Fair Housing of Marin advised Karlsruud of the reasonable accommodation clause of the Fair Housing Act and recommended that she ask the managers to accommodate her disability. The management staff refused Karlsruud second request.

Nancy Kenyon, Executive Director of Fair Housing of Marin, attempted to mediate the complaint without a lawsuit. She explained to the owners and managers of Skylark Apartments that it was a violation of the Fair Housing Act to refuse to make a reasonable accommodation to a rule or policy for a person with a disability. Skylark Apartments again refused to allow Karlsruud to keep her service dog.

Kenyon referred Karlsrud to Bennie Howard, an Equal Opportunity Specialist with the U.S. Department of Housing and Urban Development (HUD). Howard's attempts at mediation were ignored and Skylark managers refused to allow Karlsrud to keep her dog.

The managers of Skylark Apartments served Karlsrud with an eviction notice when she did not get rid of her dog. The notice said she had 30 days to vacate the apartment because she violated the "no pets" policy. On the same day she received her eviction notice, Karlsrud, on advice from Fair Housing of Marin, filed an administrative complaint with HUD.

She alleged that the owners and managers of the apartment complex had refused to reasonably accommodate her disability as required by the federal Fair Housing Act. HUD launched an investigation into the complex's actions. The evidence compiled in the investigation was later used by Chris Brancart, a private attorney who agreed to represent Karlsrud in the federal lawsuit she filed.

Brancart later said, "Persons with disabilities are not simply entitled to equal treatment. Congress has singled them out from other classes of persons protected under the Fair Housing Act for special treatment in the form of reasonable accommodation."

In addition to the \$100,000 monetary settlement, the consent order signed by the defendants requires Skylark's owners and managers to attend fair housing training courses provided by Fair Housing of Marin.

Advocate, September 1996

Companion Animal:

Companion animals differ from "service animals", like guide dogs.

Companion animals have been "prescribed" by a doctor as part of the "patient's therapy".

Therefore persons qualifying have a right to keep them regardless of an owner's refusal to allow pets in a home or unit.

All of the following apply:

- owner may not prohibit a companion animal without unusual circumstances, i.e. owner own personal allergies/health -- note: only exception
- tenant must request and provide documentation to Owner
- no extra pet deposit may be required

Agent Issues

Providing Services through Others:

If I don't do it, do I know someone else who will, both well and enthusiastically, in a timely fashion? **Be proactive!**

Cultural Diversity:

What if I don't understand them?

Can't I refer automatically to a "similar" agent

Refusal to provide services:

Realtor's Personal Safety:

Shows by Appointment – Realtors have no obligation to be attacked.

Owner Intends To Discriminate:

If the Owner insists on discriminating, the Agent should refuse the listing, and inform the Broker or Manager at once.

The Agent should always be prepared to explain to an Owner the Fair Housing Laws in a positive way in terms of its purpose and its protection for all people.

INITIAL PROSPECTIVE INFORMATION

Date: _____ Sales Assoc. _____

Names: _____

Special Requirements: _____

Location Desired: _____

Occupancy Date Desired: _____

Price Range Desired: _____

Lender approval: _____

Phone (W) __ (H) _____

Appointment Date/Time: __

Referred To: _

Further Case studies:

Handicap Discrimination:

Tourette Suffers receives \$385,000 to settle housing case
8/2000

Mgmt pays \$25,000 to settle suit over extra rent charges
for caregiver. 3/2004

HUD charges Nevada Homebuilder children disabilities.
2/2004

Race Discrimination:

Tenant wins \$265,000 discrimination settlement against
apartment and management company. 3/2004

Housing discrimination case settles \$80,000 (It was never
rented) race 10/2005

HRC & Family achieve court order \$70,000 Race & Familial
status 5/2005

Gender discrimination:

Landlord to pay Woman w/Tattoo \$30,990. 10/2002

Children discrimination:

Martin family successfully fights child discrimination.
\$70,000 11/2002

National Origin discrimination:

Landlord pays \$100,000 to settle national origin claims.
12/2002

Familial Status discrimination:

Condo & Mgt companies pay \$130,000 to settle children
playing outside case. 2/2003

Discrimination advertising:

Weekly news paper settles advertising discrimination
remarks \$5,000. 11/2005

Advocates settle racially biased ad complaints - \$100,000
6/2005

Resources:

U.S. Department of Housing & Urban
Development

Office of Fair Housing & Equal Opportunity

451 7th Street S.W. Room 5204

Washington, DC 20410-2000

1800-669-9777

www.hud.gov

National Fair Housing Advocate

www.fairhousing.com

National Association of REALTORS

www.BrokerAgentsNews.com

Northern Virginia Association of REALTORS w/
Rachel Susz., Esq.

Michael Briggs, Instructor

Prince William Association of REALTORS

Prince William County Office of Housing &
Community Development

Dr. A.J. Ferlazzo Building

15941 Donald Curtis Drive, Suite 112

Woodbridge, VA 22191

(703) 792-7530

Housing Discrimination Hotline 1-800-669-9777

PWC Human Rights Commission (703) 792-4680

www.pwcgov.org/hmnrghs

