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TO: Real Estate Agents, Brokers, and Owners of Real Property in New Jersey

FROM: Anne Milgram, *Attorney General*, State of New Jersey
J. Frank Vespa-Papaleo, *Director*, New Jersey Division on Civil Rights

SUBJECT: New Jersey Law Against Discrimination and Federal Fair Housing Laws

The rules of the New Jersey Real Estate Commission require every licensed broker or salesperson with whom you are listing your property for sale or for rent to give you a copy of this legal memorandum. The purpose of this memorandum is to help you comply with the New Jersey Law Against Discrimination ("LAD") and federal laws that prohibit discrimination in the sale or rental of real property.

Together, the LAD and the federal Fair Housing Amendments Act of 1988 prohibit you from discriminating against a prospective buyer or tenant because of his/her race, creed, color, national origin, sex, gender identity or expression, marital status, civil union status, affectional or sexual orientation, familial status, actual or perceived physical or mental disability, ancestry, nationality, and domestic partner status. (Note: "familial status" refers to families with a child or children under 18 years old and/or pregnant women. "Disability" includes persons afflicted with AIDS or HIV or perceived to be afflicted with AIDS.) The LAD also prohibits housing discrimination based on the source of lawful income or source of lawful rent or mortgage payment a tenant or purchaser uses. This means, for example, that **a landlord cannot deny the lawful recipient of a Section 8 HUD voucher the right to rent an apartment because of that source of lawful rent payment on which that person relies.**

The following are some of the requirements that apply to the sale or rental of real property:

1. All persons, regardless of their membership in one of the protected classes stated above or source of lawful income used for rent or mortgage payments, are entitled to equal treatment in the terms, conditions or privileges of the sale or rental of any real property (e.g., it is illegal to deny that housing is available for inspection, sale or rent when it really is available);
2. No discriminatory advertising of any kind relating to the proposed sale or rental is permitted;
3. The broker or salesperson with whom you list your property must refuse the listing if you indicate any intention of discriminating on any of the aforesaid bases;
4. The broker or salesperson with whom you list your property must transmit to you every written offer he/she receives on your property;

5. Any provision in any lease or rental agreement prohibiting maintenance of a pet or pets on the premises is not applicable to a service or guide dog owned by a tenant who is disabled, blind, deaf or has another qualified disability;
6. A landlord may not charge a tenant with a disability an extra fee for keeping a service or guide dog; and
7. As landlord, you must permit a tenant with a disability, at that tenant's own expense, to make reasonable modifications to the existing premises if such modifications are necessary to afford such person full enjoyment of the premises.

The sale or rental of all property including open land, whether for business or residential purposes, is covered by the LAD, with the following exceptions:

1. The rental of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as his/her residence at the time of such rentals;
2. The rental of a room or rooms to another person or persons by the owner or occupant of a one family dwelling occupied by him/her as his/her residence at the time of such rental;
3. In the sale, lease or rental of real property, preference given to persons of the same religion by a religious organization; and
4. The prohibition against discrimination on the basis of familial status does not apply to housing for older persons (as defined in the LAD at N.J.S.A. 10:5-5mm).

Note: The first two exceptions do **not** apply if the dwelling was built or substantially rebuilt with the use of public funds, or financed in whole or in part by a loan, or a commitment for a loan, guaranteed or insured by any agency of the federal government. The term "any agency of the federal government" includes, but is not limited to, the Federal Housing Administration (FHA) or the Veterans Administration (VA), which are most commonly used in such matters. Furthermore, discrimination in connection with some of the transactions covered by the above-described exceptions may nevertheless be prohibited under the Federal Civil Rights Act of 1866 (42 U.S.C. 1981, 1982).

Brokers and salespersons are licensed by the New Jersey Real Estate Commission. Their activities are subject to the general real estate laws of the State and the Commissions's own rules and regulations. The New Jersey Law Against Discrimination applies to all people in the State and is enforced by the New Jersey Division on Civil Rights, Office of the Attorney General, the Department of Law and Public Safety. Under the NJ Law Against Discrimination, Respondents who violated the law are subject to a penalty of up to $10,000 for a first violation, up to $25,000 for a second violation within the last 5 years, and up to $50,000 for two or more violations within the last seven years.

Should you require additional information or have any questions, including how to report a complaint, please review the Division's Web site at **www.NJCivilRights.org** or contact the Division on Civil Rights **Housing Hotline** toll free at **(866) 405-3050**. Please contact the Division if you desire securing the services of a Division trainer on the subject of housing discrimination.

Sincerely yours,

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