

MEMORANDUM OF UNDERSTANDING
Between NEXUS ASSOCIATION OF REALTORS®
and the NEW JERSEY DIVISION ON CIVIL RIGHTS

The New Jersey Legislature created the New Jersey Division on Civil Rights (DCR) nearly seventy-five years ago to enforce the New Jersey Law Against Discrimination (LAD) and to “prevent and eliminate discrimination” in the State of New Jersey. N.J.S.A. 10:5-6.

The LAD prohibits discrimination in housing, employment, and places of public accommodation on the basis of race, religion, gender, sexual orientation, gender identity or expression, national origin, disability, and other protected characteristics. N.J.S.A. 10:5-12. The LAD also prohibits discrimination by property owners, real-estate agents, and other housing providers based on a prospective tenant’s source of lawful income. N.J.S.A. 10:5-12(g)(1)-(2) & (h)(1)-(2); see, e.g., Franklin Tower One, LLC v. N.M., 157 N.J. 602, 618-23 (1999); Bell v. Tower Management, No. A-3165-08, 2010 WL 2346651 (App. Div. April 26, 2010). Sources of lawful income include subsidies or vouchers provided by federal, state, or local rental-assistance programs, including Section 8 housing choice vouchers, SRAP (State Rental Assistance Program), and TRA (temporary rental assistance). The New Jersey Supreme Court has recognized that discrimination on the basis of source of income is particularly harmful because it impacts some of New Jersey’s most vulnerable residents. Franklin Tower One, 157 N.J. at 605-06.

The LAD also prohibits posting or causing to be posted any advertisement for the rental of any real property “which expresses, directly or indirectly, any limitation, specification or discrimination as to . . . source of lawful income used for rental . . . payments.” N.J.S.A. 10:5-12(g)(3) & (h)(3). That includes advertisements that state a limitation on Section 8 or TRA.

NEXUS Association of REALTORS® (NEXUS) is a leading trade organization comprised of a network of over 5,000 REALTORS® committed to promoting and maintaining high standards of conduct within the real estate profession. NEXUS primarily operates within three New Jersey counties—Burlington, Camden, and Ocean but its members also are outside of those counties.

DCR and NEXUS have a mutual interest in and are committed to ensuring that advertising for real estate for rent or sale in New Jersey is free of statements that unlawfully discriminate on the basis of race, religion, gender, sexual orientation, gender identity or expression, national origin, disability, source of lawful income, and other LAD-protected characteristics.

In 2019, DCR commenced an investigation into advertisements for rental housing that contained unlawful limitations, specifications, or discrimination on the basis of source of lawful income. Through its investigation, DCR learned that a NEXUS employee, after consulting an instructor who was certified by the New Jersey Real Estate Commission about the issue, had incorrectly advised a NEXUS member that it is permissible to advertise that a particular property is not approved for Section 8 and permissible to convey orally to the applicant that the owners would not consider applicants seeking to pay with Section 8 vouchers based upon the advice of the instructor. Upon learning of this, NEXUS informed the employee that the language was unlawful under the LAD and explained that discrimination based on source of income is prohibited by the LAD.

DCR and NEXUS already had been discussing DCR providing a seminar for the members of NEXUS when this incident occurred and subsequently agreed to work collaboratively to address discrimination, including source of income discrimination, in the real estate industry. In particular, both DCR and NEXUS seek to prevent discrimination in housing, including the posting of unlawful advertisements that state a limitation on Section 8 housing vouchers, temporary rental assistance programs, or other state and local housing vouchers or subsidies.

Accordingly, NEXUS and DCR agree that:

1. NEXUS has provided DCR with copies of the training materials on housing discrimination and a list of certified teachers used by its Real Estate Success Institute and will provide additional related materials to DCR upon reasonable request.
2. DCR will provide training on fair housing protections in New Jersey to relevant NEXUS employees. Such training will include, but not be limited to, information on source of income discrimination.
3. DCR will provide training to NEXUS members on fair housing protections in New Jersey. The training will include, but not be limited to, information on source of income discrimination.
4. NEXUS will update the fair housing content on its website to include more specific information on the LAD and source of lawful income discrimination and consider ways to make this information more accessible from its main page, including posting a link to DCR's fact sheets and other resources on fair housing.
5. NEXUS will create and distribute a newsletter to its members on fair housing protections in New Jersey, including specific information on the LAD and source of lawful income discrimination. This newsletter will include a link to DCR's fact sheets on housing discrimination and source of lawful income discrimination.
6. This Memorandum of Understanding is entered into by each party freely and voluntarily.
7. Failure to adhere to the terms outlined in this Memorandum of Understanding is not a basis for liability, nor does adherence to these terms protect or release NEXUS from any liability. Compliance with these terms does not relieve NEXUS from its duty to comply with local, state or federal laws and regulations.

NEXUS Association of REALTORS®

By _____

DATE



NEW JERSEY DIVISION ON CIVIL RIGHTS

By Rachel Wainer Apter, Director

04/08/2020

DATE