

MEMORANDUM OF UNDERSTANDING
Between BRIGHT MLS and the NEW JERSEY DIVISION ON CIVIL RIGHTS

The New Jersey Legislature created the New Jersey Division on Civil Rights (DCR) 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 lawful 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.

Bright MLS is a leading multiple listing service serving real estate professionals in the Mid-Atlantic U.S. region committed to developing a more efficient real estate market place. Four New Jersey REALTOR® associations participate in Bright MLS, and Bright MLS’s coverage footprint includes Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Ocean, Salem, and Somerset counties.

DCR and Bright MLS 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 became aware that third parties had posted advertisements for rental housing that contained unlawful limitations, specifications, or discrimination on the basis of source of lawful income on the Bright MLS website, BrightMLSHomes.com. Some examples of the advertisements found on BrightMLSHomes.com include the following:

- “No Section 8”
- “NOT APPROVED FOR SECTION 8 OR TRA”
- “This property has NOT been approved for HUD/TRA Vouchers or Section 8 in the past”
- “Not section 8 approved”

Further research indicated that Bright MLS had a checkbox on a paper form provided to real estate agents that allowed agents to indicate whether the property accepted Section 8 vouchers. That form was used by agents to prepare listing information for submission to the Bright MLS electronic database that allows a real estate agent to indicate that the property owner accepts Section 8 vouchers. The selection in the electronic database allowed only selection of “yes,” potentially leading those viewing advertisements on Bright MLS to infer that listings not marked “Section 8 Yes” were not available to individuals who planned to pay with Section 8 vouchers.

DCR and Bright MLS subsequently agreed to work collaboratively to address source of lawful income discrimination. In particular, both DCR and Bright MLS seek to prevent the posting of unlawful advertisements that state or imply a refusal to accept Section 8 housing vouchers, temporary rental assistance programs, or other state and local housing vouchers or subsidies. Bright MLS has already taken a number of measures to achieve this goal, including proactively providing information to DCR and updating its content compliance process for tracking and removing unlawful advertisements.

To further advance their mutual interest in preventing discrimination based on source of lawful income, Bright MLS and DCR agree that:

1. Bright MLS will continue to work with DCR to modify its compliance processes for the Bright MLS electronic database so that it can more effectively detect, track, prevent, and remove online advertisements that use discriminatory language regarding Section 8 vouchers and other forms of state and local rental assistance. DCR will provide Bright MLS with additional keywords that Bright MLS can use to improve its content compliance processes.
2. Bright MLS has provided DCR with all New Jersey listings that appeared on Bright MLS’s system in the past year that contain language related to source of lawful income.
3. Bright MLS will provide information on its website that is easily accessible and available to all subscribers about the LAD and source of lawful income discrimination, and send this information by email to the New Jersey REALTOR® associations that participate with Bright MLS for them to send to their members that participate in Bright MLS. DCR will assist Bright MLS in creating this content.
4. Bright MLS has removed the “Section 8 approved” checkbox from its listing form document. Bright MLS will update any other paper or electronic forms distributed to its members in an effort to prevent the inclusion of questions that may lead to discrimination based on source of lawful income.
5. Bright MLS has updated its electronic database to remove a checkbox that stated “Section 8 Yes.”

6. DCR will offer training on fair housing protections in New Jersey to relevant Bright MLS employees and will include information on source of lawful income discrimination in such training.
7. Bright MLS represents that its subscribers agree in the subscription agreement with Bright MLS to comply with local, state and federal laws, including anti-discrimination laws.
8. Bright MLS and DCR will continue to work together to identify solutions to the problem of discrimination based on source of lawful income and will discuss signing an addendum to this Memorandum of Understanding once they have agreed on additional solutions.
9. This Memorandum of Understanding is entered into by each party freely and voluntarily and does not admit any liability nor may it serve as evidence in favor of liability.
10. 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 Bright MLS from any liability. Compliance with these terms does not relieve Bright MLS from its duty to comply with local, state, or federal laws and regulations.



BRIGHT MLS
By Brian Donnellan, CEO

4/23/2020

DATE



NEW JERSEY DIVISION ON CIVIL RIGHTS
By Rachel Wainer Apter, Director

4/22/20

DATE