

DISCRIMINATION AS BASIS FOR DISCIPLINE – ADOPTED REGULATIONS TEXT

Article 10. Discrimination and Panic Selling

§ 2780. Discriminatory Conduct As the Basis for Disciplinary Action.

Prohibited discriminatory conduct by a real estate licensee based upon race, color, ~~sex, religion, ancestry, physical handicap, marital status or national origin~~ religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, veteran or military status, ancestry, citizenship, primary language, or immigration status, collectively referred to below as the protected classes and individually as a protected class, includes, but is not limited to, the following:

(a) Refusing to negotiate for the sale, rental or financing of the purchase of real property or otherwise making unavailable or denying real property to any person because of ~~such person's race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ that person's protected class.

(b) Refusing or failing to show, rent, sell or finance the purchase of real property to any person or refusing or failing to provide or volunteer information to any person about real property, or channeling or steering any person away from real property, because of that person's ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class or because of the racial, religious, or ethnic composition of any occupants of the area in which the real property is located.

~~It shall not constitute discrimination under this subdivision for a real estate licensee to refuse or fail to show, rent, sell or finance the purchase of real property to any person having a physical handicap because of the presence of hazardous conditions or architectural barriers to the physically handicapped which conform to applicable state or local building codes and regulations.~~

(c) ~~Discriminating against any person because of race, color, sex, religion, ancestry, physical handicap, marital status or national origin against any person that person's protected class~~ Discriminating against any person because of race, color, sex, religion, ancestry, physical handicap, marital status or national origin against any person that person's protected class in the sale or purchase or negotiation or solicitation of the sale or purchase or the collection of payment or the performance of services in connection with contracts for the sale of real property or in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

Prohibited discriminatory conduct by a real estate licensee under this subdivision does not include acts based on a person's marital status which are reasonably

taken in recognition of the community property laws of this state as to the acquiring, financing, holding or transferring of real property.

(d) ~~Discriminating against any person because of race, color, sex, religion, ancestry, physical handicap, marital status or national origin against any person that person's protected class~~ in the terms, conditions or privileges of sale, rental or financing of the purchase of real property.

This subdivision does not prohibit the sale price, rent or terms of a housing accommodation ~~containing providing facilities or services for the physically handicapped persons with physical disabilities~~ to differ ~~reasonably~~ from a housing accommodation not containing such ~~facilities.~~ facilities, if the difference in sale price, rent or terms is reasonably related to the cost or difficulty of providing those facilities or services.

(e) ~~Discriminating against any person because of race, color, sex, religion, ancestry, physical handicap, marital status or national origin against any person that person's protected class~~ in providing services or facilities in connection with the sale, rental or financing of the purchase of real property, including but not limited to: processing applications differently, referring prospects to other licensees because of the ~~prospect's race, color, sex, religion, ancestry, physical handicap, marital status or national origin, prospective client's protected class,~~ using with discriminatory intent or effect, codes or other means of identifying ~~minority prospects a prospective client's protected class,~~ or assigning real estate licensees on the basis of a prospective client's ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin.~~ protected class.

Prohibited discriminatory conduct by a real estate licensee under this subdivision does not include acts based on a person's marital status which are reasonably taken in recognition of the community property laws of this state as to the acquiring, financing, holding or transferring of real property.

(f) Representing to any person because of ~~his or her race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ that person's protected class that real property is not available for inspection, sale or rental when such real property is in fact ~~available.~~ available for inspection, sale or rental.

(g) Processing an application more slowly or otherwise acting to delay, hinder or avoid the sale, rental or financing of the purchase of real property on account of the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of a potential owner or occupant.

(h) Making any effort to encourage discrimination against any ~~persons~~ protected class, or against any person because of ~~their race, color, sex, religion,~~

~~ancestry, physical handicap, marital status or national origin that person's protected class~~ in the showing, sale, lease or financing of the purchase of real property.

(i) Refusing ~~or failing to~~ cooperate with or refusing ~~or failing to~~ assist another real estate licensee in negotiating the sale, rental or financing of the purchase of real property because of the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of any the prospective purchaser, occupant or tenant.

(j) Making any effort to obstruct, ~~retard~~ hinder or otherwise discourage the purchase, lease or financing of the purchase of real property by persons whose ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class differs from that of the majority of persons presently residing in a structural improvement to real property or in an area in which the real property is located.

(k) Performing any acts, making any notation, asking any questions or making or circulating any written or oral statement which when taken in context, expresses or implies a limitation, preference or discrimination based upon ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~; provided, however, that nothing herein shall limit a person's protected class.

Prohibited discriminatory conduct under this subdivision does not include the administering of forms or the making of a notation required by a federal, state or local agency for data collection or civil rights enforcement purposes; or in the case of a ~~physically handicapped person with a physical disability~~, making notation, asking questions or circulating any written or oral statement ~~in order to serve the needs of such a person~~ to the extent necessary to reasonably accommodate that person's disability.

(l) Making any effort to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by a federal or state law, including but not limited to: ~~assisting in any effort to coerce any person because of his or her race, color, sex, religion, ancestry, physical handicap, marital status or national origin to move from, or to not move into, a particular area; punishing or penalizing real estate licensees for their refusal to discriminate in the sale or rental of housing because of the race, color, sex, religion, ancestry, physical handicap, marital status or national origin of a prospective purchaser or lessee; or evicting or taking other retaliatory action against any person for having filed a fair housing complaint or for having undertaken other lawful efforts to promote fair housing.~~

(1) Making any effort to coerce a person to move from, or not move into, a particular property or area because of that person's protected class;

(2) Making any effort to coerce, intimidate, threaten or otherwise compel a real estate licensee to discriminate against a person in the sale or rental of housing because of that person's protected class.

(3) Withholding business from, or otherwise punishing or penalizing, a real estate licensee for the licensee's refusal to discriminate against a person in the sale or rental of housing because of that persons protected class.

(4) Evicting or otherwise retaliating against a person for engaging in legally protected activity, including without limitation requesting accommodation for a disability, filing a fair housing complaint or undertaking lawful efforts to promote fair housing.

(m) Soliciting of sales, rentals or listings of real estate from any person, but not from another person within the same area because of differences in the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of such persons.

(n) Discriminating because of ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class in informing persons of the existence of waiting lists or other procedures with respect to the future availability of real property for purchase or lease.

(o) Making any effort to discourage or prevent the rental, sale or financing of the purchase of real property because of the presence or absence of occupants of a particular ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class, or on the basis of the future presence or absence of occupants of a particular ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class, whether actual, alleged or implied.

(p) Making any effort to discourage or prevent any person from renting, purchasing or financing the purchase of real property through any representations of actual or alleged community opposition based upon ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ a protected class.

(q) Providing information or advice to any person concerning the desirability of particular real property or a particular residential area(s) which is different from information or advice given to any other person with respect to the same property or area because of differences in ~~race, color, sex, religion, ancestry,~~

~~physical handicap, marital status or national origin-protected class~~ of such persons.

This subdivision does not limit the giving of information ~~or advice~~ to ~~physically handicapped persons with physical disabilities~~ for the purpose of calling to the attention of such persons the existence or absence of housing accommodation services or housing accommodations ~~for the physically handicapped, related to that person's disability.~~

(r) Refusing to accept a rental or sales listing or application for financing of the purchase of real property because of the owner's ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin-protected class~~ or because of the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin-protected class~~ of any of the occupants in the area in which the real property is located.

(s) Entering into an agreement, or carrying out any instructions of another, explicit or understood, not to show, lease, sell or finance the purchase of real property ~~because of race, color, sex, religion, ancestry, physical handicap, marital status or national origin.~~ from or to any person or group of persons because of that person or group's protected class.

(t) Making, printing or publishing, or causing to be made, printed or published, any notice, statement or advertisement concerning the sale, rental or financing of the purchase of real property that indicates any preference, limitation or discrimination because of ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin, protected class,~~ or any intention to make such preference, limitation or discrimination.

This subdivision does not prohibit advertising ~~directed to physically handicapped persons for the purpose of calling to the attention of such persons the existence or absence of housing accommodation services or housing accommodations for the physically handicapped.~~ persons with physical disabilities.

(u) Using any words, phrases, sentences, descriptions or visual aids in any notice, statement or advertisement describing real property or the area in which real property is located which indicates any preference, limitation or discrimination because of ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin, protected class.~~

This subdivision does not prohibit advertising ~~directed to physically handicapped persons for the purpose of calling to the attention of such persons the existence or absence of housing accommodation services or housing accommodations for the physically handicapped.~~ persons with physical disabilities.

(v) Selectively using, placing or designing any notice, statement or advertisement having to do with the sale, rental or financing of the purchase of real property in such a manner as to cause or increase discrimination by restricting or enhancing the exposure or appeal to persons of a particular ~~race, color, sex, ancestry, physical handicap, marital status or national origin~~. protected class.

This subdivision does not limit in any way the use of an affirmative marketing program designed to attract persons of a particular ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class who would not otherwise be attracted to the real property or to the area.

(w) Quoting or charging a price, rent or cleaning or security deposit for a particular real property to any person which is different from the price, rent or security deposit quoted or charged to any other person because of differences in the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of such persons.

This subdivision does not prohibit the quoting or charging of a price, rent or cleaning or security deposit for a housing accommodation ~~containing~~ providing facilities for ~~the physically handicapped persons with a disability~~ to differ reasonably from a housing accommodation not containing such ~~facilities~~ facilities, if the difference in price, rent, cleaning or security deposit is reasonably related to the cost or difficulty of providing those facilities or services.

(x) Discriminating against any person because of ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ the persons's protected class in performing any acts in connection with the making of any determination of financial ability or in the processing of any application for the financing or refinancing of real property.

Nothing herein shall limit the administering of forms or the making of a notation required by a federal, state or local agency for data collection or civil rights enforcement purposes. In any evaluation or determination as to whether, and under what terms and conditions, a particular lender or lenders would be likely to grant a loan, licensees shall proceed as though the lender or lenders are in compliance with Sections 35800 through 35833 of the California Health and Safety Code (The Housing Financial Discrimination Act of 1977).

Prohibited discriminatory conduct by a real estate licensee under this subdivision does not include acts based on a person's marital status which are reasonably taken in recognition of the community property laws of this state as to the acquiring, financing, holding or transferring of real property.

(y) Advising a person of the price or value of real property on the basis of ~~factors, factors~~ related to the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of residents of an area or of residents or potential residents of the area in which the property is located.

(z) Discriminating in the treatment of, or services provided to, occupants of any real property in the course of providing management services for the real property because of the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of said occupants.

This subdivision does not prohibit differing treatment or services to a ~~physically handicapped person because of the physical handicap, marital status~~ with a disability as a reasonable accommodation for that person's disability in the course of providing management services for a housing accommodation.

(aa) Discriminating against the owners or occupants of real property because of the ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class of ~~their~~ the owner or occupant's ~~guests, visitors or invitees; visitors, invitees, sublessees or caregivers.~~

(bb) Making any effort to instruct or encourage, expressly or impliedly, by either words or acts, licensees or their retained salespersons, retained broker associates, employees or other agents to engage in any discriminatory act in violation of a federal or state fair housing law.

(cc) Establishing or implementing rules that have the purpose or effect of limiting the opportunity for any person because of ~~his or her race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ the person's protected class to secure real property through a multiple listing or other real estate service.

(dd) Assisting or aiding in any way, any person in the sale, rental or financing of the purchase of real property where there are reasonable grounds to believe that such person intends to discriminate because of ~~race, color, sex, religion, ancestry, physical handicap, marital status or national origin~~ protected class.

Note: Authority cited for Article 10, Section 10080, Business and Professions Code.
Reference: Sections 125.6 and 10177, Business and Professions Code.