



A WAY WITH WORDS

CHOOSE YOUR PHRASES CAREFULLY IN REAL ESTATE ADVERTISING

A good rule of thumb when it comes to using particular words or phrases in real estate advertising is that if some people find words offensive and there is an easy substitute, you should consider following the path of least resistance and use the substitute phrase that is less likely to offend. This should help keep you in compliance with our fair housing laws. More importantly, REALTORS® are in the business of helping people buy, sell and lease housing. The most successful REALTORS® are the ones who make that process a joyful experience for their clients and customers. To the extent people are offended by the phrases REALTORS® use in advertising, the job of the REALTOR® is harder, not easier.

So let's take the phrase "master bedroom." The origin of the phrase has been researched and it appears to have no relationship to the antebellum south when the owner of a house (then referred to as "master") might have had a particular bedroom. Instead, it appears to simply be a reference to the largest bedroom and is thought to have first come into usage around 1926. However, if the phrase offends some people, consider using a more benign phrase like "main bedroom", "primary bedroom", "main on main" or "primary bedroom on main?" People are less likely to be offended and the REALTOR®'s goal of helping buyers, sellers, landlords and tenants happily fulfill their housing needs is more easily achieved.

The bottom line regarding the law of real estate advertising is that it should not indicate a preference or limitations nor should it discriminate based on a person's race, color, religion, sex, handicap, familial status, or national origin. Most REALTORS® fully understand and appreciate that their job is to provide equal housing opportunity to all people.

One area that is sometimes confusing to REALTORS® is how to advertise the benefits of a particular property or location without showing a preference for classes of people protected under our fair housing laws. For example, advertising that a particular house is walking distance to a well-regarded and popular Catholic high school may well be a key selling point for the property. However, such an advertisement would almost certainly be seen as expressing a preference for persons of that religious faith to buy the property. The Department of Housing and Urban Development ("HUD") has concluded as much and has discouraged the use of such references to religious institutions unless they are very well-known landmarks like "St. Patrick's Cathedral" whose location is familiar to everyone in a community would commonly be used as a starting point to give directions. Truthfully, there are not many places like "St. Patrick's Cathedral" in the U.S. that fit into the landmark category.

What do you do when you know that being near a particular religious school will help sell the property? First, choose more neutral language like "great public and private schools in the

area". Second, take a deep breath and remember that those people who want to be near a particular religious school are likely already aware when houses in the neighborhood come up for sale. In other words, advertising that point may, as a practical matter, simply not be necessary, particularly since it may create a fair housing issue.

Do we sometimes get carried away in sanitizing our choice of words and phrases? Yes and no. Truthfully, REALTORS® have been far more concerned than even HUD about not using certain phrases. HUD has historically not been too concerned about phrases like "walk-in closet", "mother-in-law suite", "great view", "jogging trails", "family room", "Jack and Jill bathroom" or "third floor walk-up", concluding that these terms are commonly used as physical descriptions of housing units rather than discriminatory terms. However, as REALTORS® and others have called attention to these phrases, we have all had moments of greater clarity where we have taken a step back and recognized that our choice of words may at times unintentionally exclude certain buyers.

This gets us back to the two key points. First, when in doubt, err on the side of strict compliance with our fair housing laws. Second and more importantly, to be successful as a REALTOR®, advertise in a way that appeals to as broad a market as possible and try not to offend anyone.

Written by GAR General Counsel Seth Weissman, this article originally appeared in the Summer 2021 issue of Georgia REALTOR® magazine.