

FAIR HOUSING COACH

Train your staff to avoid costly discrimination complaints

DECEMBER 2025

LESSON AT A GLANCE

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How to Avoid Illegal Steering

Don't let a leasing agent's seemingly innocent comment get you sued for illegal steering.

Picture this: A gay couple visits your leasing office asking about available one-bedroom apartments. There are two such apartments available but your leasing agent shows the couple only one. She doesn't mention the other apartment because she wants to keep the couple away

from the resident in the neighboring apartment because she's heard him using gay slurs. Since she's only trying to protect the couple, her actions don't violate fair housing law. Right?

Wrong.



Part of what makes steering so widespread is how easy it is to conceal.

Even if well meaning, the leasing agent could be accused of discrimination because she directed or “steered” the couple away from a particular apartment because of their sexual orientation.

This month’s lesson deals with steering. While subtle and often unintentional, this form of discrimination is every bit as illegal as the overt kind—for example, if the leasing agent had said outright, “Sorry, but we don’t rent to homosexuals.” And because steering is so subtle and hard to detect, it’s easy for landlords, managers, and leasing agents who are otherwise committed to fair housing principles to engage in it without meaning to.

We’ll explain what steering is and how it occurs. Then we’ll outline the seven deadly steering sins that your leasing agents shall not commit when showing apartments. As usual, we’ll finish up the lesson with the *Coach’s Quiz* so you can see how well you learned the material.

WHAT THE LAW SAYS

The federal Fair Housing Act (FHA) bans discrimination on the basis of race, color, religion, sex, handicap (disability), familial status, or national origin. These “protected characteristics” are the minimum standards; many states have adopted their own fair housing laws that extend protections to other protected characteristics, which may include sexual orientation, source of income, and military status, to name a few. (See our September lesson, *State of the States: Complying with Ever-Expanding State Fair Housing Laws* for more details.)

Forms of unlawful discrimination include, among other things:

- Refusing to sell, rent, or negotiate for the sale or rental of, or otherwise make available or deny housing to a person on the basis of, protected characteristics;

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- Offering different and less favorable terms, conditions, or privileges of the sale or rental of housing due to a person's protected characteristics;
- Making notices and statements or engaging in advertising for the sale or rental of housing that indicate a preference on the basis of protected characteristics; and
- Making discriminatory misrepresentations about the availability of housing.

Steering may run afoul of any one or combination of the above, depending on the situation. It occurs when a landlord or other housing provider tries to influence rental prospects' or tenants' choice in housing based on their protected characteristics. Steering is illegal because it limits people's choices and denies them the opportunity to buy or rent the housing they choose. Practiced on a wider basis, steering also maintains or creates segregation across apartment buildings, neighborhoods, towns, and cities.

Part of what makes steering so widespread is how easy it is to conceal. And those very same qualities make it easy to commit accidentally. Nobody would object to the principle that housing providers refrain from trying to influence a person's housing choices on the basis of protected characteristics. But applying this no-influence principle to real-life situations is very tricky. After all, aren't leasing agents *supposed* to provide prospects with information about the apartment so they can decide whether it's suitable for them?

Steering is all about balancing these competing dynamics. Nobody is suggesting that leasing agents be banned from providing information and answering questions about a property so that prospects can decide whether renting there is right for them. The key to avoiding steering is ensuring that leasing agents don't carry out these information-sharing responsibilities in a way that influences the prospect's decision based on their

race, color, etc. And that's easier said than done. Understanding and avoiding these seven deadly sins will help you and your leasing agents steer clear of steering.

THE 7 DEADLY SINS OF STEERING TO AVOID

Sin #1: Telling Prospects Where to Rent Based on Protected Characteristics

Steering isn't always subtle. Sometimes it's as obvious as a punch in the face. The two most common forms of overt steering:

- Making verbal remarks like "we don't lease to Black people" or "we don't have anything suitable for kids or people with disabilities"; and
- Displaying apartments on the basis of protected characteristics such as not showing any apartments on "adults-only" floors to prospects with young kids.

While these things are enough to make any fair-minded landlord cringe, regrettably, they still happen. And rest assured that if any of your leasing agents were to engage in that kind of conduct, fair housing testers will eventually catch them. At that point, you'll be looking at not just liability but also potential punitive damages running into six—or even seven—figures.

Example: An Atlanta real estate firm and its leading agent had to pay \$160,000 to *settle* steering charges for showing white testers homes in predominately white neighborhoods and Black testers homes in Black neighborhoods. **The smoking gun:** The agent allegedly told one tester, "I wasn't sure where to take you because I couldn't tell over the phone whether you were white or Black."

Example: A Philadelphia-area real estate company agreed to a \$25,000 settlement to resolve allegations that employees

Steering can occur even when agents genuinely believe they're acting in the prospects' best interests.

steered white testers posing as rental applicants to neighborhoods they described as safer, while directing Black testers to areas agents considered “rough” [Brotman Enterprises, LLC, 2014].

Compliance Strategy: Before they start working for you, make sure leasing agents have fair housing training and know that they must leave any personal biases out of their leasing activities.

Sin #2: Trying to Influence Prospects' Choices Based on Protected Characteristics

A more common form of steering is to say things to discourage prospects from renting from you (or where in the building to rent from you) or encouraging them to rent from somebody else on the basis of their protected characteristics. Examples of things leasing agents should never say:

- “I think there are other apartment buildings in town that cater more to kids”;
- “We have a few apartments in the back of the building for people with wheelchairs”; and
- “There are other apartment buildings closer to the synagogue in town.”

Compliance Strategy: Instruct leasing agents to welcome all prospects, highlight the property's positive features, and refrain from discouraging prospects from renting from you based on their protected characteristics.

Sin #3: Telling Prospects Where They'd Be “Comfortable”

One of the most common forms of steering is seeking to influence prospects' choices based on where they'd be most comfortable. The problem is what the word “comfortable” implies.

The critical assumption that's dangerous to make and even more poisonous to act upon is that people are more “com-

fortable” and “compatible” with people of their own race, color, etc. Accordingly, telling prospects that they'd be uncomfortable at your property or more comfortable somewhere else suggests that you're trying to influence them on the basis of their protected characteristics. This conduct constitutes illegal steering even when leasing agents genuinely believe they're acting in the prospects' best interests.

Another variation on the theme is seeking to protect residents from discriminatory neighbors, for example, by deliberately not telling a Jewish family about an otherwise suitable vacancy to protect them from the virulently antisemitic neighbor next door. Giving bigots, racists, and the like veto power over who can lease from you makes you a co-conspirator in discrimination.

Compliance Strategy: Emphasize that your leasing agents must show prospects *all* available apartments of the size they're seeking, not just ones they think are appropriate or best suited to the prospect's needs.

Sin #4: Answering Discriminatory Questions

In some cases, the impetus for steering comes not from the leasing agent but the prospect considering the property. An example is when a prospect asks questions about, say, the race or color of residents in the building—for example, where a white prospect asks, “are there any Black people living here?” A more subtle way to pose the question is to ask a leasing agent, “Do you think I'd be comfortable (*there's that word again*) in this building?”

Prospects who ask these kinds of questions are probably either: (1) testers sent to monitor your property's compliance with the FHA; or (2) genuine racists or bigots. In either case, make sure that leasing agents don't take the bait. Specifically, make sure they understand that

discussing the protected characteristics of other residents with a prospect is a form of illegal steering, even when the prospect brings up the topic.

Note that the same principles apply when a prospect makes discriminatory demands, such as insisting on being shown only apartments on floors where none of the residents are of a particular race, color, etc.

Compliance Strategy: The best practice for these situations is to have the leasing agent politely decline to answer the discriminatory question or heed the discriminatory demand and tell the prospect

of your property's commitment to fair housing and refraining from discrimination. It's also a best practice to script the leasing agent's "we-don't-discriminate" reply. Language to consider:

"I'm sorry but I'm afraid I can't answer that question. Please understand that ABC Apartments is an equal housing opportunity provider committed to complying with all federal, state, and local fair housing laws. ABC does not discriminate against any person because of race, color, religion, national origin, sex, familial status, disability, or [other personal characteristics protected by state or local fair housing law]."

In some cases, the leasing agent may even be able to explain why the prospect's question or demand is discriminatory and persuade him or her to rephrase or retract it.

If, instead of a direct question about a protected class, prospects ask whether they'd be comfortable renting from you, instruct leasing agents to turn the question around and ask the prospect what they mean by "comfortable." If the prospect's response is nondiscriminatory and not based on the characteristics of the people in the building or neighborhood, the leasing agent can proceed to answer the question. But if the prospect's response suggests any discriminatory biases, such as, "I'm comfortable with young people" or "I'm uncomfortable around kids," the leasing agent should refuse to answer and recite the above statement.

Sin #5: Limiting Prospects' Choices Out of Concern for Their Kids' Safety

Leasing agents must understand that it's not their responsibility to try to talk a prospect out of making what they deem to be unsound decisions about where to rent. This instinct of leasing agents to want to protect prospects against themselves is most likely to manifest itself when pros-

DEEP DIVE: Steering & Schools

While it might seem like the most natural and innocent thing in the world, discussing neighborhood schools with rental prospects can be a steering liability minefield. That's because phrases such as "a school with low test scores" or "communities with declining schools" have become code words for racial and other differences to the extent there's a correlation between the quality of the schools and the racial or ethnic composition of the neighborhood. Similarly, praising the schools in one neighborhood while saying nothing about the schools in another may have the same steering effect.

With this in mind, the National Association of Realtors (NAR) has devised best practices for avoiding steering when discussing schools. And while the recommendations are targeted to real estate brokers, many of them also work for leasing agents who are trying to avoid steering when talking to prospects about the quality of schools in the neighborhood, including:

- Offer facts, not opinions or personal judgments;
- Keep a list of websites and other sources of objective information about the schools in your area to which you can refer prospects so they can make their own judgments; and
- Ask prospects to clarify their criteria—for example, if they ask whether the schools are "good," have them describe the standards they believe make a school good so you can point them to appropriate sources of information.

**It's not your
responsibility to
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pects want to rent apartments that would be unsafe for their young children—for example, apartments located on an upper floor or right next to a pool with no lifeguard.

A 1992 in-house legal memorandum from HUD's Fair Housing Division clearly states that denying or trying to discourage families with children housing on the basis of safety is illegal steering. According to the memo, the FHA requires "housing providers to make all units, including units on upper floors and units with balconies, available to families with children." It also bans the practice of making families with children sign waivers of liability not required of other residents.

Example: In 2017, the U.S. Department of Justice (DOJ) accused a New Hampshire landlord of using child safety as a pretext to steer away the mother of an infant child. According to the complaint, the landlord had a safety policy of placing families with children under the age of 10 in first-floor apartments only. And since no first-floor apartments were available, they turned the mother away rather than showing apartments that were available on the upper floors. To avoid risking a trial, the landlord agreed to shell out \$25,000 to settle the case.

While ruling out the practice of not showing apartments to families with children on the basis of safety, the HUD memo goes on to say that it's okay for housing providers to make "factual statements about perceived hazards of their property," as long as:

- Those statements are "truthful and not misleading";
- The statements don't indicate a "preference, limitation, or discrimination" based on familial status; and
- An "ordinary listener" wouldn't interpret the statements as discouraging families with children from deciding to live in the apartment building.

Compliance Strategy: Set reasonable safety rules that are designed to protect minor children in their use of facilities such as swimming pools and fitness centers. For guidance on doing so, see our May 2025 lesson, [Avoid 8 Discrimination Pitfalls When Setting Rules for Common Use Amenities](#).

Sin #6: Exaggerating Your Property's Drawbacks

Another common way to steer prospects away from housing is to draw attention to or exaggerate the property's drawbacks or flaws. Such behavior, which runs contrary to the leasing agent's mission to make your property look good, is powerful evidence of a motive not to rent to the prospect, especially when that prospect has one or more protected characteristics, e.g., a Muslim woman with a disability.

Example: A landlord is determined to maintain a peaceful and quiet "adult" property to attract retirees. Recognizing that categorically refusing to rent to prospects with children is illegal, the landlord comes up with a plan to discourage them from doing so by creating a list of all the things that make the property unsuitable for young children. The landlord then instructs leasing agents to go through the list with all prospects who have young kids. **Result:** The landlord and leasing agents who actually implement the plan have committed illegal steering.

Sin #7: Directing Prospects to Particular Buildings Based on Protected Characteristics

One particularly egregious and still common form of steering is to assign prospects or residents to a particular section of a property or floor of a building because of a protected characteristic. Examples range from limiting all residents with wheelchairs and/or families with children under a particular age to the ground floor to actual segregation and

maintaining separate buildings for Black and white residents. If you don't believe these things actually happen nowadays, we can cite literally dozens of cases to persuade you otherwise. Here are just a couple of examples:

Example: In May 2020, the DOJ filed a lawsuit against a Georgia management company for allegedly steering elderly and disabled African-American rental prospects away from Cedarwood Village, a predominantly white housing complex for elderly persons and persons with disabilities, and to Cedartown Commons, a predominantly Black general occupancy complex [*U.S. v. Crimson Management LLC, May 2020*].

Example: The DOJ charged a Massachusetts housing authority of steering South Asian prospects away from three

overwhelmingly white properties that it manages and steering white applicants away from two of its disproportionately Black properties in an effort to keep all of its properties racially segregated [*United States v. J&R Associates, January 2021*].

Example: The landlord of a 268-unit rental property in Renton, Wash., agreed to pay \$110,000 in damages and penalties to settle DOJ allegations of discrimination against African Americans, Hispanic Americans, Indian Americans, and families with children in violation of the FHA. The complaint alleged that the landlord steered Indian prospects away from one of its five buildings, treated residents from India less favorably than other residents, and discouraged African Americans, Hispanics, and families with children from living there [*U.S. v. Summerhill Place, LLC, March 2011*].

TIME OUT:

Steer Clear of Discriminatory Marketing

You may be engaging in steering without realizing it by including language or images in your marketing materials that indicate preferences on the basis of protected characteristics. Statements like "No Children" or "Singles Only" are obvious examples. However, indications of discriminatory preference may be far more subtle, such as characterizing a property located in a predominately white area as being "traditional" or even noting that it's located next to a particular church. Here's a list of marketing Do's & Don'ts that comes straight out of HUD guidelines:

| DO | DON'T |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> Describe the property using factual and objective terms like: <ul style="list-style-type: none"> Two bedrooms Walk-in closets Spectacular views Describe the amenities: <ul style="list-style-type: none"> On-site fitness facilities Community pool Basement storage Include a disclaimer noting that you don't discriminate on the basis of race, color, religion, sex, familial status, disability, national origin, and any additional personal characteristics protected under the fair housing laws of your state Use a fair housing logo | <ul style="list-style-type: none"> Describe what you're looking for in a renter, such as: <ul style="list-style-type: none"> Great for young couple Single adults preferred Describe the people in the neighborhood: <ul style="list-style-type: none"> Catholic neighborhood Large Hispanic community Describe the neighborhood in terms of churches, synagogues, or other landmarks that could suggest a preference for or against people with a protected characteristic Include an explicit preference or limitation based on a protected characteristic, such as: <ul style="list-style-type: none"> No children Christians only |



Okay, now it's your turn. We've explained the seven deadly sins to avoid—and train your leasing agents to avoid—to keep from engaging in discriminatory steering. Let's see how well you've learned the lesson. Take the Coach's Quiz below to see if you can apply the rules to real-life situations. Each question has one and only one correct answer. On a separate piece of paper, write down the number of each question, and list the letter corresponding to the answer you believe is correct—for example, (1) b, (2) a, and so on. The correct answers (with explanations) are provided in a separate PDF and follow the quiz on our website. Good luck!

Submitting this quiz to your supervisor? Put your name here: _____

QUESTION #1

A prospect tells a leasing agent that he's a devout Christian and wants to be shown only apartments where the neighboring occupants are also Christian. No Jews. No Muslims. Just Christians like me, he demands. What should the leasing agent do?

- a.** Agree to his demands because it's not steering when the prospect is the one who discriminates.
- b.** Refer him to neighboring apartment buildings where he'd be comfortable because they have a large number of Christian residents.
- c.** Tell him that the property is an equal housing opportunity provider and offer to show him apartments based purely on availability.

QUESTION #2

A married couple with an adorable 2-year-old child wants to lease an apartment as soon as possible. Unfortunately, the only apartment currently available is a 10th floor unit with an open balcony. The leasing agent is horrified and wants to protect the toddler. What should she do?

- a.** Not tell the couple about the vacancy for their own safety.
- b.** Tell the couple that the unit is vacant but strongly advise them not to take it.
- c.** Tell the couple the unit is vacant but inform them that it has an open balcony.