

**CHAPTER 45. HOUSING ACCOMMODATIONS/
COMMERCIAL PROPERTY**

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Authority

The provisions of this Chapter 45 issued under the Pennsylvania Human Relations Act (43 P. S. §§ 951—963), unless otherwise noted.

Source

The provisions of this Chapter 45 adopted August 22, 1961, unless otherwise noted.

§ 45.1. Purpose.

This chapter insures that housing accommodations and commercial property subject to the coverage of the act are operated and made available in a manner that does not discriminate on the basis of one or more of the following:

- (1) Familial status, age, race, color, religious creeds, ancestry, handicap or disability, sex or national origin.
- (2) The use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of guide or support animals.
- (3) The handicap or disability of an individual with whom the person is known to have a relationship or association.

Source

The provisions of this § 45.1 adopted August 22, 1961; amended December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901. Immediately preceding text appears at serial pages (167597) to (167598).

§ 45.2. Construction.

(a) This chapter will be liberally construed for the accomplishment of the purposes of the act.

(b) This chapter shall be construed consistently with other Federal and State laws and regulations except when to do so would operate in derogation or limitation of the purpose of the act and this chapter.

Source

The provisions of this § 45.2 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.3. Enforcement.

This chapter will be subject to and enforced in accordance with the act, Chapter 42 (relating to special rules of administrative practice and procedure) and 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

Source

The provisions of this § 45.3 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.4. Definitions.

(a) As used in this chapter, unless a different meaning appears from the context or a different definition is provided in this section, the definitions found at § 44.4 (relating to definitions) apply.

(b) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

Aggrieved person—As used in section 9(a) of the act (43 P. S. § 959(a)), a person claiming to be aggrieved includes a person who does one of the following:

(i) Claims to be aggrieved by a discriminatory housing practice.

(ii) Reasonably believes that he will be injured by a discriminatory housing practice that is about to occur.

Commission—The Human Relations Commission of the Commonwealth.

Dormitory—A building with sleeping accommodations provided by an educational institution approved by, licensed by or if not required to be so approved or licensed, subject to 22 Pa. Code Part I (relating to Board of Education) for its on campus students.

Housing accommodations or commercial property—All real property subject to the jurisdiction of the act.

Housing for older persons—Housing that is one or more of the following:

(i) Provided under a Federal or State program that the Commission determines is specifically designed and operated to assist elderly persons as defined in a Federal or State program. In determining whether a Federal or State program is designed and operated to assist elderly persons, the opinion of the Secretary of Housing and Urban Development will be adopted.

(ii) Intended for, and solely occupied by persons 62 years of age or older.

(iii) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

Personal residence—A duplex house or other house in which the owner thereof maintains bona fide residence for himself. The term does not include a building containing three or more separate living quarters occupied or intended to be occupied by individuals or families living independently of each other, whether or not the owner maintains a bona fide residence therein. A building or structure occupied and used by the owner shall lose its identity as a personal residence when the owner moves out of the building and no longer uses it as a bona fide residence for himself.

Protected class—The term includes the following:

(i) The race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability of any person.

(ii) The handicap or disability of an individual with whom the person is known to have a relationship or association.

(iii) The use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of guide or support animals.

Real estate-related transaction—One or more of the following:

(i) Making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property.

(ii) Purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property.

(iii) Selling, brokering or appraising real property.

Rooming house—A building containing single rooms for rent with no private individual kitchen facilities for use by the renters.

Source

The provisions of this § 45.4 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

Cross References

This section cited in 16 Pa. Code § 45.8 (relating to advertisements); and 16 Pa. Code § 45.13 (relating to exemptions).

§ 45.5. General prohibitions; undue hardship.

(a) A person may not limit or classify or segregate a person with a handicap or disability in any way that adversely affects the person with a handicap or disability's opportunities to use, enjoy or benefit from housing accommodations or commercial property subject to the coverage of the act. This section does not prohibit a housing accommodation or commercial property provider from limiting the housing accommodation or commercial property to, or giving preference in the housing accommodation or commercial property to, persons with handicaps or disabilities.

(b) A person may not deny a person with a handicap or disability the opportunity to use, enjoy or benefit from housing accommodations or commercial property subject to the coverage of the act if the basis of the denial is the need for reasonable accommodations.

(1) A person may not refuse to make reasonable accommodations in rules, policies, practices and procedures when the accommodations may be necessary to afford a person with a handicap or disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

(2) A modification of premises is a type of accommodation.

(c) An undue hardship defense will not be a defense in instances when specific actions are required by the act or other applicable Federal, State or local laws or regulations.

(d) The factors to be considered in determining whether an undue hardship is imposed by the requirement that a reasonable accommodation be made for the handicap or disability of a person include the following:

(1) The extent, nature and cost of the accommodation required, including the overall size and nature of the housing accommodation or commercial property. Financial capability shall be a factor when raised as a part of an undue hardship defense.

(2) The extent to which a person with a handicap or disability can reasonably be expected to need and desire to use, enjoy or benefit from the housing accommodation or commercial property which is the subject of the proposed reasonable accommodation.

(3) The requirements of other laws or contracts, to the extent they are not preempted by the act.

(4) The extent to which the accommodation would pose a demonstrable threat of harm to the health and safety of others.

Source

The provisions of this § 45.5 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.6. Modifications of premises.

A person with a handicap or disability shall be allowed to make at his expense, reasonable modifications of existing premises, which are occupied or to be occupied by the person, if the modification may be necessary to afford the person full enjoyment of the premises. In the case of a rental, the landlord may, if it is reasonable to do so, require the renter to restore the interior of the premises to the condition that existed before the modification, excepting reasonable wear and tear.

Source

The provisions of this § 45.6 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.7. Unlawful discriminatory practices.

It is an unlawful discriminatory practice for a person, because of the protected class of a person applying for purchase or rent, the protected class of an owner, occupant or user, or the protected class of a person seeking financing for housing accommodation or commercial property, to do one or more of the following:

- (1) Offer or impose different or special terms or conditions in connection with the selling, renting or leasing of commercial property or housing accommodation.
- (2) Offer or impose different or special terms or conditions in connection with the loan of money for the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations or commercial property.
- (3) Offer or impose different or special terms or conditions in connection with the tenancy, ownership or occupancy of any housing accommodation or commercial property.
- (4) Offer or impose different or special terms or conditions in the furnishing of facilities of housing accommodation or commercial property.
- (5) Offer or impose different or special terms and conditions in making available any real estate related transaction, including a secondary real estate financing transaction.
- (6) Refuse to sell, lease, rent or finance, or refuse to negotiate for the sale, lease, rental or financing of housing accommodations or commercial property.
- (7) Deny a person access to or membership in, a multiple listing service, real estate brokers' organization or other services.

Source

The provisions of this § 45.7 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.8. Advertisements.

(a) It is unlawful for a person to indicate in advertising that the housing that the person is offering for sale or lease is exempt from the act or to offer a preference, limitation or discrimination in the advertising of that exempt property.

(b) This section does not restrict the inclusion of applicable age and familial status requirements in advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute housing for older persons as defined by § 45.4 (relating to definitions).

Authority

The provisions of this § 45.8 amended under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.3, 963 and 959.1).

Source

The provisions of this § 45.8 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901; amended July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial page (234256).

§ 45.9. Governmental units.

(a) A governmental unit or political subdivision may not take an action which would have the effect of denying equal access to housing accommodations or commercial property within the subdivision, to any person on the basis of a protected class. It is not a defense to the action that the governmental act in question was the result, in whole or in part, of public opposition to the efforts of the member of the protected class to obtain housing accommodations or commercial property within the political subdivision.

(b) Activity by a political subdivision or governmental unit which is prohibited when based upon a person or person's protected class includes, but is not limited to:

(1) An action, including the furnishing of services, which directly or indirectly affects housing accommodations or commercial property.

(2) An action taken by a unit of the political subdivision or governmental unit such as a zoning board or planning commission. Prohibited actions by the subdivision and by these boards and commissions include the consideration of the protected class of any person in the development or application of zoning and building codes, occupancy requirements, land use plans, comprehensive plans or long range plans.

Source

The provisions of this § 45.9 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.10. Illegal inquiries.

(a) It is unlawful to make an inquiry to determine whether an applicant for a housing accommodation or commercial property, a person intending to reside in, occupy or use that housing accommodation or commercial property after it is sold, rented or made available, or any person associated with that person, is a member of a particular protected class.

(b) It is unlawful to make an inquiry to determine whether an applicant for a housing accommodation or commercial property, a person intending to reside in, occupy or use that housing accommodation or commercial property after it is sold, rented or made available, or a person associated with that person, has a handicap or disability, or to make inquiry as to the nature or severity of a handicap or disability of the person. This subsection does not prohibit the following inquiries, if these inquiries are made of all applicants, whether or not they have handicaps or disabilities:

- (1) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy.
- (2) An inquiry to determine whether an applicant is qualified for a dwelling available only to persons with a handicap or particular type of handicap.

Source

The provisions of this § 45.10 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.11. Coercion, threats and intimidation.

(a) It is an unlawful discriminatory activity to:

(1) Coerce a person, either orally, in writing, or by other means to deny or limit the benefits provided that person, in connection with the sale or rental of a housing accommodation or commercial property or in connection with a real estate-related transaction because of protected class.

(2) Threaten, intimidate or interfere with persons in their enjoyment of a housing accommodation or commercial property because of the protected class of any person including, but not limited to, visitors or associates of the persons.

(3) Threaten an employe or agent with dismissal or an adverse employment action, or take such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the protected class of the person seeking access.

(4) Intimidate, threaten, interfere or discriminate against any person because that person is engaging in activities designed to make other persons aware of, or encouraging other persons to exercise, rights granted or protected by this part.

(5) Retaliate, intimidate, threaten, interfere or discriminate against a person because that person has opposed a practice forbidden in the act, or because the

individual has made a charge, testified or assisted in an investigation, proceeding or hearing under the act or any act which prohibits practices prohibited by the act.

(b) In addition to following the standard complaint procedure, when an owner or a prospective owner, occupant or prospective occupant or user or prospective user of housing accommodations or commercial property, or the agent, real estate broker or representative of any of them, is intimidated, harassed or threatened by individuals or groups because of the protected class of the owner or prospective owner or occupant or user or prospective occupant or user, from taking peaceful possession of or occupying or using the housing accommodations or commercial property which he has purchased, rented or intended to occupy or use or is prevented from enjoying peaceful possession or use, the Commission may assume jurisdiction, enlist the aid of law enforcement authorities and engage in an educational program within the immediate area in an effort to eliminate prejudice and to further good will.

Source

The provisions of this § 45.11 adopted August 22, 1961; amended December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901. Immediately preceding text appears at serial pages (167598) to (167599).

§ 45.12. Recordkeeping.

It is an unlawful discriminatory practice for any person to make or keep, unless required by Federal, State or local requirements, those requirements, including those contained in a consent order entered into with the Commission, a record or form of application containing questions which could tend to reveal a protected class in connection with a real estate related transaction or the selling, leasing or financing of housing accommodation or commercial property. The request for photographs of persons is considered a violation of this section.

Source

The provisions of this § 45.12 adopted August 22, 1961; amended December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901. Immediately preceding text appears at serial page (167599).

§ 45.13. Exemptions.

(a) Section 5(h) of the act (43 P. S. § 955(h)) does not prohibit the following:

(1) A religious or denominational institution or organization, or a charitable or educational organization which is operated, supervised or controlled by or in conjunction with a religious organization, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose, to persons of the same religion or denomination, or from giving preference to these persons, unless membership in the religion is restricted because of race, color or national origin.

- (2) A private club or fraternal organization, not in fact open to the public, which, incident to its primary purpose, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.
- (b) Nothing in section 5(h) of the housing provisions of the act, regarding age or familial status, applies with respect to housing for older persons.
- (c) With the exception of the exemption for dwellings which constitute housing for older persons as defined by § 45.4(f) (relating to definitions), the exemptions to the act are not applicable to real estate firms, brokers, agents, sales people or an individual employed by any of them, when acting on behalf of them.
- (d) The exemption for housing for older persons in which the housing is solely occupied by persons 62 years of age or older shall be met if all of the occupants are 62 years of age or older.
- (e) In determining whether the exemption for housing for older persons in which the housing is provided under a Federal or State program is met, the Commission will adopt the finding of the Secretary of the Department of Housing and Urban Development as to whether the housing is designed or operated to assist elderly persons.

Authority

The provisions of this § 45.13 amended under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note and 963).

Source

The provisions of this § 45.13 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901; amended July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial pages (234258) to (234260).

§ 45.14. Attorney fees.

- (a) If, upon all the evidence at a public hearing, in cases alleging a violation of section 5(d), (e) or (h) or 5.3 of the act (43 P. S. §§ 955(d), (e) and (h) and 955.3) when the underlying complaint is a violation of section 5(h) or 5.3, the Commission finds that a respondent has engaged in or is engaging in an unlawful discriminatory practice as defined in the act, the Commission may award attorney fees and costs to prevailing complainants. If the complainant in an appropriate housing case desires attorney fees and costs as a part of his remedy, evidence of the costs and fees shall be presented at the public hearing.
- (b) If upon all the evidence at a public hearing, in cases alleging a violation of section 5(d), (e) or (h) or 5.3 where the underlying complaint is a violation of section 5(h) or 5.3 of the act, the Commission finds that a respondent has not engaged in or is not engaging in an unlawful discriminatory practice as defined in the act, the Commission may award attorney fees and costs to a prevailing respondent if the respondent proves that the complaint was brought in bad faith.

(1) If the respondent in an appropriate housing case desires attorney fees and costs, evidence of bad faith on the part of the complainant and evidence of the costs and fees shall be presented at the public hearing.

(2) If the respondent prevails and bad faith on the part of the complainant is established by a preponderance of the evidence, an order requiring the payment of attorney fees and costs may be issued against the complainant.

Source

The provisions of this § 45.14 adopted December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901.

§ 45.21. [Reserved].

Source

The provisions of this § 45.21 adopted August 22, 1961; reserved December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901. Immediately preceding text appears at serial page (167599).

§ 45.22. [Reserved].

Source

The provisions of this § 45.22 adopted August 22, 1961; reserved December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901. Immediately preceding text appears at serial page (167600).

§ 45.31. [Reserved].

Source

The provisions of this § 45.31 adopted August 22, 1961; reserved December 17, 1993, effective December 18, 1993, 23 Pa.B. 5901. Immediately preceding text appears at serial page (167600).

**Subchapter B. HOUSING ADVERTISEMENTS—GUIDELINES
AND STATEMENT OF POLICY**

GENERAL

Sec.

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Source

The provisions of this Subchapter B adopted October 17, 1997, effective October 18, 1997, 27 Pa.B. 5485, unless otherwise noted.

Cross References

This subchapter cited in 16 Pa. Code § 45.202 (relating to initial procedure).

§§ 45.101—45.103. [Reserved].**Source**

The provisions of these §§ 45.101—45.103 reserved July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial pages (234263) to (234264).

§§ 45.121—45.126. [Reserved].**Source**

The provisions of these §§ 45.121—45.126 reserved July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial pages (234264) and (250047) to (250048).

§ 45.141. [Reserved].**Source**

The provisions of this § 45.141 reserved July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial page (250048).

§ 45.142. [Reserved].**Source**

The provisions of this § 45.142 amended November 6, 1998, effective November 7, 1998, 28 Pa.B. 5578; reserved July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial pages (250048) to (250051).

§§ 45.151—45.154. [Reserved].**Source**

The provisions of these §§ 45.151—45.154 reserved July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434. Immediately preceding text appears at serial pages (249155) to (249156).

§ 45.161. Purpose.

(a) The list of words in § 45.181 (relating to words to be avoided) does not contain every possible word and phrase that may violate the act. The purpose of this section is to provide as complete a list as possible.

(1) For example, while many nationalities, types of disabilities and races are mentioned, the list is not inclusive. Any word indicating ancestry, race, color, religion or disability is equally prohibited in the context of the real estate advertisements.

(2) The list will provide guidance on how to recognize the type of language that may be violative of the act.

(3) When the context of the word or phrase is key to its possible unlawful meaning that will be noted.

(b) The purpose of this subchapter is to insure that advertisements for housing and commercial property do not include words, phrases, symbols, and the like, which violate the advertising provisions of the act.

(c) Section 45.192 (relating to affirmative defenses) contains affirmative defenses which will preclude a finding of a willful and knowing violation of the advertising provisions of the act.

(d) This subchapter implements the statutory mandate of section 9.1(b) of the act (43 P. S. § 959.1(b)).

Authority

The provisions of this § 45.161 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.161 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

§ 45.162. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, which are identical to those found in section 4 of the act (43 P. S. § 954):

Act—The Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

Advertisement or *advertising*—See 43 P. S. § 954(3).

Advertiser—See 43 P. S. § 954(aa).

Housing accommodation—See 43 P. S. § 954(i).

Housing for older persons—See 43 P. S. § 954(w).

Person—See 43 P. S. § 954(a).

Personal residence—See 43 P. S. § 954(k). This term applies to any person as defined in this section.

Authority

The provisions of this § 45.162 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.162 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

§ 45.163. General rules.

The prohibited words and phrases in § 45.181 (relating to words to be avoided) are unlawful when used in housing advertisements. In addition to those words and phrases, a word or phrase that is commonly understood to be offensive to a group of people in a protected class also violates the act.

Authority

The provisions of this § 45.163 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.163 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

PROHIBITED USAGES

§ 45.171. Race/color/national origin.

It is unlawful to advertise a limitation, preference or discrimination on account of race, color or national origin. Examples include the use of:

- (1) Any color to describe a group of people for example, white, brown, red, black or yellow.
- (2) Any nationality or race to describe a group of people for example, Caucasian, Negroid, Chinese, Asian Immigrant, French Hawaiian, Arab, Oriental, African-American, Irish, and the like.
- (3) Landmarks or organizational locations which are indicative of a particular nationality or race, unless all of the landmarks in the area are noted— for example, if proximity to a specific place associated with a particular ethnic group is noted as a directional landmark, reference should be made to all other nearby comparable facilities of interest to other groups.

(4) Code words which are recognizable in a particular neighborhood as connoting neighborhoods that restrict certain races or ethnic groups. Code words are facially neutral words and phrases which are used in a particular circumstance which are understood to mean an illegal preference.

(5) Neighborhood and geographical landmarks such as "chintown" and "little Italy" are acceptable terms if the description is used in connection with the property being sold or rented and not for exclusionary purposes.

(6) Phrases such as "oriental garden" and "kosher restaurant" are acceptable when used as a description of the property being sold or rented, not as a landmark for other property.

Authority

The provisions of this § 45.171 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.171 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

§ 45.172. Familial status/age.

(a) It is unlawful to advertise a preference, limitation or discrimination against families with children in the household or against persons 40 years of age or older. Examples include, the following:

(1) The use of any phrase which notes a preference, limitation or discrimination for adults, couples or singles or families without children for example—"adult atmosphere," "mature adults preferred," "great for retired couple or couple just starting out," "adult/family sections," "no kids/pets okay," "couples only," "ideal for singles," "adult community" or "suitable for one or two adults."

(2) The use of any colloquialisms which imply the same as those in subsection (a)(1) for example—"empty nesters," "honeymooners" or "swinging singles."

(3) The listing the number of children allowed.

(b) Notwithstanding the prohibitions in subsection (a), it is not unlawful to:

(1) List the size and number of rooms or bedrooms.

(2) Indicate that the housing meets the requirements for "housing for older persons" as defined in section 4 of the act (43 P. S. § 954). A publisher may rely on the advertisers written representations of such, unless the publisher has reason to believe otherwise.

(3) Advertise a preference against children and advertise age restrictions when the housing accommodation qualifies as "housing for older persons" as defined in section 4 of the act.

Authority

The provisions of this § 45.172 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.172 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

Cross References

This section cited in 16 Pa. Code § 45.191 (relating to advertisements).

§ 45.173. Disability.

(a) It is unlawful to advertise a preference, limitation or discrimination against persons with disabilities or to advertise that the property is not accessible.

(b) It is not unlawful to describe housing as accessible to persons with disabilities.

Authority

The provisions of this § 45.173 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.173 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

§ 45.174. Religion.

(a) It is unlawful to advertise a preference, limitation or discrimination on the basis of religion. Examples include the following:

(1) The use of any religious denomination—for example, Christian, Jew, Muslim or Buddhist.

(2) Phrases such as “surround yourself with Christians.”

(3) The use of a particular landmark or location which is indicative of a particular religion.

(b) Notwithstanding the prohibitions in subsection (a), it is not unlawful for any religious or denominational institution or organization or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious organization or any bona fide private or fraternal organization to advertise:

(1) A preference to persons of the same religion or denomination or to members of the private or fraternal organization.

(2) That the making of the selection is calculated by the organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained.

Authority

The provisions of this § 45.174 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.174 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

Cross References

This section cited in 16 Pa. Code § 45.191 (relating to advertisements).

§ 45.175. Sex.

(a) It is unlawful to advertise any preference, limitation or discrimination on the basis of sex. Examples include “males only need apply,” “professional male preferred” or “perfect for single female.”

(b) Notwithstanding the prohibitions in subsection (a), it is not unlawful to advertise a preference based on sex in the rental or leasing of housing accommodations as follows:

- (1) In single-sex dormitory.
- (2) For rooms in one's personal residence in which common living areas are shared.

Authority

The provisions of this § 45.175 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.175 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

Cross References

This section cited in 16 Pa. Code § 45.191 (relating to advertisements).

LIST OF WORDS OR PHRASES TO AVOID**§ 45.181. Words to be avoided.**

(a) It is unlawful to use the following words or phrases in housing advertisements unless used in a clearly nondiscriminatory context such as “white cabinets” or “french doors.” The list is neither intended nor reasonably able to be all inclusive. It is also unlawful to use words or phrases not appearing on the list, but which are used in a context which may reasonably be interpreted as indicating an unlawful discriminatory intent.

Able-bodied adult—If the housing is “housing for older persons” as defined by the Federal Fair Housing Act (42 U.S.C.A. §§ 3601—3619) and the act, it is appropriate to say so.

- (i) A newspaper/publisher may publish an advertisement for housing, and be held harmless for liability for an advertisement which uses the terms “senior housing,” “senior community,” “retirement community,” if the advertiser provides a statement formally, in writing, to the newspaper/publisher that the property being advertised meets the requirements for “housing for older persons” as defined in the act.

(ii) Equivalent phrases referring to persons 55 and 62 and older such as “adult community,” “55 and over,” “adult community,” “62 and over,” “adult 55+,” “adult 62+” to describe housing for older persons, will also be acceptable.

(iii) The term “adult” alone or with terms that do not meet housing for older persons requirements will remain unlawful terms as a description of housing for older persons.

African-American

Asian

American

Ancestry (any)

Black

Blind

Buddhist

Catholic

Caucasian

Chicano/Chicana

Child/children—Restrictions, unless housing for older persons

Chinese

Christian

Church, near

Color (any when used to describe persons)

Colored

Couple

Crippled

Deaf

Disability (any)—It is acceptable to describe housing as accessible to persons with disabilities. It is not acceptable to attempt to limit the housing to certain persons by stating that it is not accessible.

Disabled

Empty nester

Ethnic neighborhood

Ethnic group (any)

Foreigners

Handicapped

Hindi

Hispanic

Ideal for . . . (a type of person)

Immigrants

Independently, capable of living

Indian

Integrated

Interracial

Irish
 Jew/Jewish
 Latino/Latina
 Mentally handicapped, ill, retarded
 Mexican-American
 Middle Eastern(er)
 Minority
 Mixed community
 Mormon
 Moslem
 Mosque, near
 Muslim
 Nationality (any)
 Newlyweds
 Parish, near
 Perfect for (a type of person)
 Polish
 Prefer Protestant
 Puerto Rican
 Race (any, when used to describe a person)
 Religion (any, when used to describe persons)
 Retarded
 Retired persons, retirees—If it is “housing for older persons,” as defined by the Federal Fair Housing Act and the act, use that phrase, as many people who are retired may not qualify for housing for older persons while many people still working may in fact be eligible for housing for older persons.
 Segregated
 Senior Use—“housing for older persons,” as defined by the Federal Fair Housing Act and the act. See note under “adult” and “retired persons.” Many people who do not consider themselves senior may be eligible for housing for older persons.
 Suitable for
 Synagogue, near
 Temple, near
 White
 Young
 Youthful

(b) Any of the words in subsection (a) may be used if they are part of an address. For example, Poplar Church Road, Lutheran Street, Churchville, Black Ridge or Indian Hills, and the like, are permissible.

Authority

The provisions of this § 45.181 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.181 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

Cross References

This section cited in 16 Pa. Code § 45.161 (relating to purpose); 16 Pa. Code § 45.163 (relating to general rules); and 16 Pa. Code § 45.193 (relating to good faith efforts).

ADDITIONAL REQUIREMENTS**§ 45.191. Advertisements.**

(a) Advertisements published within this Commonwealth are covered by this chapter regardless of the locality of the property or financial institution.

(b) Except to the extent allowed by §§ 45.172(b), 45.174(b) and 45.175(b) (relating to familial status/age; religion; and sex), it is unlawful to advertise any discriminatory preference or limitation, even if the property is otherwise exempt from coverage under the act.

(c) When an advertising campaign includes pictures of individuals or families, the advertiser has the responsibility to alternate the picture from time to time to include a variety of protected classes in the advertisement.

Authority

The provisions of this § 45.191 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.191 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

§ 45.192. Affirmative defenses.

It shall be an affirmative defense precluding a finding that an advertiser has knowingly and willfully violated the act and this subchapter if the advertiser has complied with one of the following:

(1) Attempted, in good faith, to comply with the list and specific examples of impermissible housing advertisements described in this subchapter.

(2) A written advisory of the Commission concerning what constitutes appropriate housing advertisements. The Commission will maintain the written advisory on file and provide a copy of the advisory to the advertiser. To obtain an advisory, the advertiser shall telephone the Commission Housing Division at (717) 787-4055 or write to the Commission, 101 S. Second Street, Suite 300, Post Office Box 3145, Harrisburg, Pennsylvania 17105-3145, Attn: Housing Division, and indicate the language of the advertisement in question. Appropri-

ate Commission housing staff will inform the advertiser of its decision on the ad and follow-up with a written advisory within 10 working days.

- (3) Made reasonable efforts in good faith to comply with the act.

Authority

The provisions of this § 45.192 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.192 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

Cross References

This section cited in 16 Pa. Code § 45.161 (relating to purpose); and 16 Pa. Code § 45.193 (relating to good faith efforts).

§ 45.193. Good faith efforts.

An advertiser will be deemed to have acted in good faith if the advertiser complies with one or more of the following:

- (1) As to an advertisement for “housing for older persons,” as defined by the Federal Fair Housing Act (42 U.S.C.A. §§ 3601—3619) and the act, if the advertiser produces a signed written statement by a housing provider which states that the facility or community complies with the requirements of the housing for older persons exemption and the advertiser has no actual knowledge that the facility or community is not actually eligible for the exemption.
- (2) If the word or phrase complained of is in compliance with the list in § 45.181 (relating to words to be avoided) and is not, on its face, discriminatory within the context of the advertisement.
- (3) If the advertiser produces a written Commission advisory, obtained by use of the procedure in § 45.192(2) (relating to affirmative defenses), that the language complained of is legal, within the same context in which the advertiser requested the opinion from the Commission.

Authority

The provisions of this § 45.193 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.193 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

§ 45.194. Federal regulations.

Federal regulations published by the Department of Housing and Urban Development, regarding housing advertisements in areas of concurrent jurisdiction, preempt anything to the contrary in this subchapter.

Authority

The provisions of this § 45.194 issued under sections 1—6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954, 955, 959, 959.1, 959.1 note, 959.3 and 963).

Source

The provisions of this § 45.194 adopted July 7, 2000, effective July 8, 2000, 30 Pa.B. 3434.

Subchapter C. CITATION PROCEDURE—STATEMENT OF POLICY

Sec.

- 45.201. Purpose.
- 45.202. Initial procedure.
- 45.203. Administrative procedures.
- 45.204. Hearing.
- 45.205. Appeals.
- 45.206. Enforcement of orders/nonpayment of civil penalties/default judgment.
- 45.207. Schedule of civil penalties.
- 45.208. Form.

Source

The provisions of this Subchapter C adopted October 9, 1998, effective October 10, 1998, 28 Pa.B. 5136, unless otherwise noted.

§ 45.201. Purpose.

Advertisements covered by section 5(h)(5) of the act (43 P. S. § 955(h)(5)) shall be subject to a schedule of civil penalties for violation of section 5(h)(5) of the act by the advertiser and the publisher in instances when the complainant does not take action to secure housing accommodations for financing and is not denied

housing accommodations or financing based on the alleged discriminatory language in the advertisement. Section 5(h)(5) of the act states that it is an unlawful act to:

“Print, publish or circulate any statement or advertisement: (i) relating to the sale, lease or acquisition of any housing accommodation or commercial property or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property which indicates any preference, limitation, specification, or discrimination based upon race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability or because of the handicap or disability of an individual with whom the person is known to have a relationship or association, or (ii) relating to the sale, lease or acquisition of any housing accommodation or commercial property which indicates any preference limitation, specification, or discrimination based upon use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support of guide animals”

§ 45.202. Initial procedure.

When the Commission becomes aware of an unlawful advertisement, which is subject to a citation, from sources other than aggrieved persons seeking housing or commercial property or financing in connection therewith, the following procedures apply:

- (1) The advertisements shall be forwarded to the appropriate regional housing staff in their original form, if possible, with information regarding their publication.
- (2) Housing staff shall complete the Commission Citation Form (see § 45.204 (relating to form)).
 - (i) The form shall be forwarded to the housing director for review and transmittal to the Executive Director/designee.
 - (ii) The Executive Director/designee shall sign and return the citation to the housing director.
 - (iii) The Housing Director shall cause the citation to be entered on an appropriate database assigning the citation a number consisting of:
 - (A) “C” = Citation
 - (B) “1,2,3” = Regional Office
 - (C) “Y” = Calendar Year
 - (D) “#” = Representing sequential numerical docketing
- (3) A copy of the citation and Subchapter B (relating to housing advertisements—guidelines and statement of policy) shall be sent to the parties cited and when appropriate to licensing or regulatory agencies, or both. The letter shall set forth the following options:
 - (i) Admission of violation and payment of the appropriate civil penalty.

(ii) Denial of violation, payment of the appropriate amount of civil penalty and request for formal hearing. Included in this option is the notice that failure to appear at the hearing will result in a default judgment.

(iii) Admission to some violations and denial of others which would involve appropriate payment, in separate payments, of the amount of civil penalties for those admitted and those denied for which a hearing was requested.

(4) Failure to respond or take any of the options set forth in paragraph (3) within 15 days of service of the citation will result in a default judgment for the full amount of the penalty.

(5) Failure to pay a civil penalty could result in additional penalties, or a request for revocation, suspension of other disciplinary actions against licensees or other action including court proceedings which the Commission deems appropriate.

(6) Procedures will be established in the Commission's Office of Administration to administer the following options:

(i) Process checks and forward them when violations are admitted.

(ii) Denial of violation, payment of the appropriate amount of civil penalty and request for formal hearing. Included in this option is the notice that failure to appear at the hearing will result in a default judgment.

(iii) Admission of some violations and denial of others which would involve appropriate payment (in separate payments) of the amount of civil penalties for those admitted and those denied for which a hearing was requested.

(7) Failure to respond or take any of the actions set forth in paragraph (6) within 15 days of service of the citation will result in a default judgment for the full amount of the penalty.

(8) Failure to pay a civil penalty could result in additional penalties, or a request for revocation, suspension of other disciplinary actions against licensees or other action including court proceedings which the Commission deems appropriate.

§ 45.203. Administrative procedures.

(a) Procedures will be established in the Commission's Office of Administration to:

(1) Process checks and forward them when violations are admitted.

(2) Escrow checks for those citations when a hearing is requested.

(b) The housing director will note on the appropriate data base:

(1) Citations when violations are admitted and civil penalties paid.

(2) Citations when violations are denied and the following apply:

(i) Payment is received and escrowed and a hearing requested.

(ii) Payment is not received and default judgment is required.

(iii) When no response is received and default proceeding are necessary.

- (c) When violations are admitted and payment is made, the following apply:
 - (1) The fact will be noted and payment forwarded to the Department of Revenue.
 - (2) The record will be closed.
 - (3) Letters will be sent to parties advising of closing.
- (d) When violations are denied and payment is included, the following apply:
 - (1) The payment will be noted on the record.
 - (2) The hearing request will be forwarded to a citation officer.
 - (3) The parties will be advised.
 - (4) The housing counsel will prepare the matter for hearing.
- (e) When violations are denied and payment is not received, the following apply:
 - (1) The record will note the deficiency.
 - (2) The parties will be given written notice of a 5-day extension to submit payment.
 - (3) If payment is received, the procedure in subsection (b) will be followed.
 - (4) If payment is still not received, the default procedure will be applied.
- (f) If there are both admissions of some violations and denial of some with payment, or nonpayment, the appropriate procedure will be utilized as outlined in this section.
- (g) If there is no response, a request for a default judgment shall be made to the citation officer.
- (h) The conduct of the hearing by the citation officer in any of these circumstances will be governed by appropriate Commission regulations/requirements or these procedures, or both.

§ 45.204. Hearing.

- (a) An order following a hearing shall be issued by the citation officer who may:
 - (1) Order the payment of the amount of the citation.
 - (2) Modify the amount of payment.
 - (3) Dismiss the citation and direct the return of the payment.
 - (4) Order remedial actions or reasonable cost, or both.
 - (5) Order other appropriate equitable relief.
- (b) Orders affirming a violation shall be referred to any appropriate licensing or regulating agencies, or both, for action as the agencies deem possible.

Cross References

This section cited in 16 Pa. Code § 45.202 (relating to initial procedure).

§ 45.205. Appeals.

Appeals of an order issued by the citation officer shall be made to the Commission.

§ 45.206. Enforcement of orders/nonpayment of civil penalties/default judgment.

Requests for enforcement of nonpayment of civil penalties/default judgment shall be made to the Commission and filed with the appropriate court/agency when approved by the Commission.

§ 45.207. Schedule of civil penalties.

(a) *Penalties.* The following penalties apply:

	<i>Publisher</i>	<i>Advertiser</i>
First Citation	250	250
Second Citation	500	500
Third Citation	Formal Process	Formal Process

(b) *Formal process.* When, in the Commission's judgment, the action of a party in the event of a third citation warrants, the Commission has the following options:

- (1) To impose a maximum penalty on a multiple basis.
- (2) To file a Commission initiated complaint.
- (3) To seek legal recourse, including those under section 11 of the act (43 P. S. § 961).

§ 45.208. Form.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION
101 SOUTH SECOND STREET, SUITE 300
HARRISBURG, PA 17105

CITATION

RESPONDENT FIRST NAME	MIDDLE NAME	LAST NAME
1.		
RESIDENCE ADDRESS	CITY-TWP-BORO-COUNTY	STATE ZIP CODE
2.		
BUSINESS ADDRESS		
3.		
CHARGE		
4.		
DATES(S) OF PUBLICATION	MANNER OF PUBLICATION	COPY ATTACHED
5.	6.	YES ___ NO ___
STATUTE OR REGULATIONS	CIVIL PENALTY	TOTAL DUE \$
7.	8. \$	9.
I VERIFY THAT THE FACTS SET FORTH IN THIS CITATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE OR INFORMATION AND BELIEF. THIS VERIFICATION IS MADE SUBJECT TO THE PENALTIES OF SECTION 4804 OF THE CRIMES CODE (18 PA.C.S § 4904) RELATING TOO UNSWORN FALSIFICATION TO AUTHORITIES.		
SIGNATURE		
10.	DATE _____	
REMARKS		
11.	12. CITATION NO.	

READ THE ATTACHED PLEA AND THE EXPLANATION OF YOUR RIGHTS AND OBLIGATIONS FOR SETTLEMENT OF THIS MATTER. YOU MUST ELECT AN OPTION AND FOLLOW THE APPROPRIATE DIRECTIONS WITHIN FIFTEEN (15) DAYS TO AVOID FURTHER LEGAL ACTION AGAINST YOU.

SHOULD YOU ELECT TO DEMAND A HEARING ON THIS MATTER, FOLLOW THE INSTRUCTIONS ON THE ATTACHED PLEA. YOUR HEARING DATE WILL BE SET BY A HEARING OFFICER. ALL HEARINGS ARE HELD IN HARRISBURG IN THE PENNSYLVANIA HUMAN RELATIONS COMMISSION CONFERENCE ROOM.

NOTICE OF RIGHTS AND OBLIGATIONS

- 1. The original of this citation will be filed with the Housing Director of the Pennsylvania Human Relations Commission at Pennsylvania Human Relations Commission, Housing Division, 101 South Second Street—Suite 300, Harrisburg, PA 17105.
- 2. Within fifteen (15) days of the issuance or receipt of this citation, you must:
 - a. ADMIT TO THE VIOLATION(S) by signing the appropriate plea below and mailing the entire Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director, at the address listed above, or;
 - b. DENY THE VIOLATION(S)
 - i. in whole by signing the appropriate plea as specified in Section (b) of the Plea (attached) and mailing the Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director at the address listed specified above.
 - ii. in part by signing the appropriate plea as specified in Section "c" of the Plea (attached) below and mailing the Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director at the address specified above.

If you deny the violation(s), a formal hearing will be scheduled in Harrisburg at which you may present evidence on your behalf. Failure to appear at the formal hearing will result in the entry of a default judgment against you for the full amount of the civil penalty ("Total Due") as specified on the Citation.

- 3. All payments must be made by certified or cashier's check or money order and made payable to the "Commonwealth of Pennsylvania," and mailed to the Housing Director at the address specified above. Please place the Citation Number on certified or cashier's check or money order. Personal Checks WILL NOT be accepted.
- 4. FAILURE TO RESPOND WITHIN THE TIME SPECIFIED ABOVE will result in the entry of a default judgment against you for the full amount of the civil penalty ("Total Due") as specified on the Citation. Failure to pay a civil penalty could result in additional fines and the revocation, suspension or other disciplinary action against any license which you may hold.

a. I ADMIT to the violation(s) on the reverse side of
this Citation

Signature

Date

b. I DENY the violation(s) on the reverse side of
this Citation

Signature

Date

c. I ADMIT to violations

Enter Violation Number(s) here

have enclosed the amount for these violations and DENY the remaining violation(s)
on the reverse
side of this Citation _____

Signature

Date

PLEASE PLACE THE CITATION NUMBER(S)
ON YOUR CERTIFIED OR CASHIER'S CHECK OR MONEY ORDER

Note: A copy of the Pennsylvania Human Relations Commission's guidelines and policy statement on advertising pursuant to Act 34 is attached and incorporated by reference here unto.

[Next page is 47-1.]

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