

2014 Calendar

GREC Brokerage Course & Trust

Accounts Class Dates:

- September 24-25, 2014
Athens Area AOR
www.realtorsathens.com
- December 3-4, 2014
GAMLS
www.GeorgiaRealEstateSchool.com

Common Violations Class Dates:

- September 11, 2014
Dalton, GA
706-278-0297
- September 23, 2014
Duluth, GA
770-495-7300

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Beware of the Pitfalls in Advertising “Adult Communities” or “Adult Housing” As Being Discriminatory of the “Familial Status” Section of the Fair Housing Act

Real Estate licensees are taught early in their career that discrimination of any manner is not permitted in housing. “The Fair Housing Act (FHAct) protects all residents from discrimination on the basis of race, color, national origin, religion, sex, handicap or **familial status** (families with children under the age of 18 living with parents or legal guardians; pregnant women and people trying to get custody of children under 18).” The use of “adult communities” or “adult housing” in advertising shows a preference for adults only and a limitation or discrimination against adults with children.

Because “Congress intended to preserve housing specifically designed to meet the needs of senior residents” the **FHAct includes an exemption to the familial status requirement:**

“Housing that meets the FHAct definition of **housing for older persons is exempt** from the law's familial status requirements, provided that: (Excerpt from [HUD](#))

- HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Therefore, housing that satisfies the legal definition of housing for older persons can legally exclude families with children.”

(Source: <http://www.gpo.gov/fdsys/pkg/PLAW-104publ76/pdf/PLAW-104publ76.pdf>
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/seniors)

The Department of Housing and Urban Development (HUD) published a Question and Answer document concerning the Housing for Older Persons Act of 1995 (HOPA) that provides further clarification:

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_7769.pdf

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Commission**
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Atlanta, GA 30303-1605
Phone 404-656-3916

Beware of the Pitfalls in Advertising “Adult Communities” or “Adult Housing”...

Continued from page 1...

Question 5 of the HUD Question and Answer document addresses advertising housing for older persons:

“May a housing facility or community advertise as "adult" housing and still demonstrate the intent to be housing for older persons?”

Answer

Use of the word "adult" or "adult community" in an advertisement, sign or other informational material, or when describing the facility or community to prospective renters or purchasers or members of the public, does not demonstrate an intent to be housing for older persons as defined by the final rule. The use of these terms, on the other hand, does not destroy the intent requirement of HOPA. If a facility or community has clearly shown in other ways that it intends to operate as housing for older persons, and meets the 80% requirement, and has in place age verification procedures, the intent requirement can be met even if the term "adult" is occasionally used to describe it. The Department will look at the totality of the circumstances in the investigation of a complaint alleging that the facility or community does not qualify as housing for older persons.”

Licensees should **use the term “housing for older persons” or “senior housing” when advertising** real estate that meets the legal definition of housing for older persons.

When a licensee advertises real estate that does not meet the legal definition of “housing for older persons” or “senior housing”, the use of general terms such as “adult community”, “active adult community”, or “adult living” may violate both the FHAct and Georgia’s Fair Housing Statute.

Housing for Seniors/Older Persons is a special exemption defined by regulations in the real estate arena and real estate developments must comply with federal and state regulations in order to obtain this special exemption to avoid what would otherwise be discrimination of the “familial status” provision of the Fair Housing Act. Be careful how you advertise in order to avoid liability.

There are State as well as Federal Fair Housing Laws. The Georgia Fair Housing Law is regulated through the Georgia Department of Housing and Human Resources. Click here to review [Article 4 the Georgia Fair Housing Law](#), and it can also be accessed by clicking the Resources Tab on the [GREC School Home page](#).



Focus on Terminology: “Discrimination”

Discrimination is when you are not treated the same, or you do not treat others the same because there may be differences between you because of:

- Race
- Color
- National Origin
- Sex
- Religion
- Familial Status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18)
- Disability

Source: [HUD](#)

Do you know what this symbol means?

This is the fair housing symbol. Landlords, real estate companies, and lending companies use this symbol to show that they will not discriminate against anyone when a family is looking for a home. You may see this symbol in:

- Advertisements for housing
- Rental offices for housing (apartments and houses)
- Banks
- Advertising by landlords
- Advertising by real estate agents
- Construction site signs



Source: HUD

The HUD Link to [Fair Housing Information for Housing Providers](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/HousingProviders) is a **great resource**. It describes the Fair Housing Act, provides definitions, and examples of what is prohibited in addition to explaining what housing is covered. Following is an excerpt from the site. (http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/HousingProviders)

What Housing Is Covered?

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

What Is Prohibited?

In the sale and rental of housing, no one may take any of the following actions based on race, color, national origin, religion, sex, familial status, or disability:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions, or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing
- In mortgage lending, no one may take any of the following actions on the basis of race, color, national origin, religion, sex, familial status, or disability:
 - Refuse to make a mortgage loan;
 - Refuse to provide information regarding loans;
 - Impose different terms or conditions on a loan, such as different interest rates, points, or fees;
 - Discriminate in appraising property;
 - Refuse to purchase a loan; or
 - Set different terms or conditions for purchasing a loan

Prohibition Against Discriminatory Advertising

It is unlawful to make, print, or publish any statement, in connection with the sale or rental of a dwelling, that indicates a preference, limitation, or discrimination based on race, color, religion, gender, disability, familial status, or national origin. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Source: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/HousingProviders

Other helpful links: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_7769.pdf,

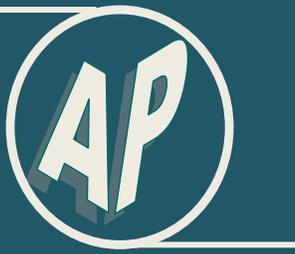
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/aboutfheo/aboutfheo

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The Appraisers Page

Useful Links:

[GREAB Web Site](#)

[Appraisal Act](#)

[GREAB Disciplinary Sanctions](#)

"Calculating Time Adjustments"

By: D. Scott Murphy, SRA & E. Grant Murphy

One of the most challenging tasks for an appraiser is to correctly analyze the current market and calculate the rate of depreciation or appreciation. The method for calculating either depreciation or appreciation is the same, look to the past, carefully study the present and contemplate the future. The problem is that most appraisers do not know how to calculate or report the proper market trends.

Let me take this opportunity to speak directly to the appraisers and discuss the proper procedure for researching, calculating and reporting the current market conditions. In 2008 the two GSE's (government sponsored entities) Fannie Mae and Freddie Mac released forms 1004MC and 71 respectively (a cosponsored form which is identical).

Market Conditions Addendum to the Appraisal Report The Market Conditions Addendum (Form 1004MC) is designed to enhance the transparency of the market trends and conditions conclusions

*made by the appraiser. The Market Conditions Addendum will be required with all one- to four-unit property appraisals performed on or after April 1, 2009. This requirement applies to loans delivered to Fannie Mae, whether the loans are underwritten manually or through Desktop Underwriter®. Use The Market Conditions Addendum is intended to provide the lender/client with a clear and accurate understanding of the market trends and conditions prevalent in the subject neighborhood. The form provides the appraiser with a structured format to report the data and to identify more easily current market trends and conditions. The appraiser's conclusions must be reported in the "Neighborhood" section of the appraisal report. *Source: Fannie Mae*

The problem is that we are now more than five years since the form's mandatory use and many appraisers do not know how to use it. I review dozens of appraisals every week and the misuse of this form is the number one error that I find. The problem is that if this form is not completed properly, numerous other parts of the appraisal form itself are not completed properly and more importantly the appraiser is not analyzing the market correctly, which will impact the reliability of the entire report. Where most appraisers go wrong is that they are not using COMPARABLE properties when they create their dataset. The instructions at the top of the form clearly state that the sales and listings used in this analysis must be comparable properties.

Market Conditions Addendum to the Appraisal Report

File No.

The purpose of this addendum is to provide the lender/client with a clear and accurate understanding of the market trends and conditions prevalent in the subject neighborhood. This is a required addendum for all appraisal reports with an effective date on or after April 1, 2009.

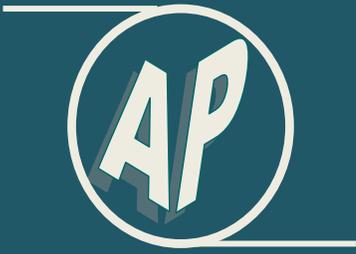
Property Address _____ City _____ State _____ ZIP Code _____

Borrower _____

Instructions: The appraiser must use the information required on this form as the basis for his/her conclusions, and must provide support for those conclusions, regarding housing trends and overall market conditions as reported in the Neighborhood section of the appraisal report form. The appraiser must fill in all the information to the extent it is available and reliable and must provide analysis as indicated below. If any required data is unavailable or is considered unreliable, the appraiser must provide an explanation. It is recognized that not all data sources will be able to provide data for the shaded areas below; if it is available, however, the appraiser must include the data in the analysis. If data sources provide the required information as an average instead of the median, the appraiser should report the available figure and identify it as an average. **Sales and listings must be properties that compete with the subject property, determined by applying the criteria that would be used by a prospective buyer of the subject property.** The appraiser must explain any anomalies in the data, such as seasonal markets, new construction, foreclosures, etc.

Inventory Analysis	Prior 7-12 Months	Prior 4-6 Months	Current - 3 Months	Overall Trend		
Total # of Comparable Sales (Settled)				<input type="checkbox"/> Increasing	<input type="checkbox"/> Stable	<input type="checkbox"/> Declining
Absorption Rate (Total Sales/Months)				<input type="checkbox"/> Increasing	<input type="checkbox"/> Stable	<input type="checkbox"/> Declining
Total # of Comparable Active Listings				<input type="checkbox"/> Declining	<input type="checkbox"/> Stable	<input type="checkbox"/> Increasing
Months of Existing Inventory (Total Listings/Active Sales)				<input type="checkbox"/> Declining	<input type="checkbox"/> Stable	<input type="checkbox"/> Increasing

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The appraiser must use the exact same search parameters used in looking for the comparable sales and listings used in the appraisal. This often results in a small dataset. Sometimes there will be zero sales or listings for a given period. The GSE's say that is okay. They do not want the appraiser to change neighborhood boundaries or other significant factors in order to collect more data.

*Markets are seldom all up or all down. Most markets have general trends, but on any given day, there will be evidence of values increasing, decreasing, and/or remaining stable. In some areas, it may be difficult to find any evidence of a trend or even any change. This is not for the lack of change but for the lack of evidence. It is doubtful that the analysis done in one market is transferable to another market nor is it likely that any analysis has a very long shelf life. * Source Fannie Mae, Freddie Mac and the Appraisal Institute training video*

Using just the neighborhood boundaries is not sufficient. Within those neighborhood boundaries are many submarkets. Isn't it fair to say that homes in the \$100,000-200,000 price range could be appreciating or depreciating at a very different rate than those over \$1,000,000? One could be appreciating and the other depreciating. The appraiser must focus on the particular submarket, which the subject is a part of. All too often when reviewing reports with the 1004MC addendum, I see the top line of the report show (refer back to image of the form above) numbers such as 356 sales in the 7-12 month period; 250 sales in the 3-6 month period and 264 sales in the past 3 months – then the appraiser states in the report that there were no suitable sales he could add to the report which sold in the past 3 months. How is that possible when you just stated there were 264 comparable properties, which sold in the past three months? What is happening is the appraiser is using all the sales from the entire market.

The 1004MC form, when completed correctly, should help the appraiser properly analyze the current market. He must consider any current trends. This does not mean he calculates that average appreciation over the course of the past 12 months. He must consider how the market is reacting as of the effective date of the appraisal. The 1004MC should also not be the only source of data used by the appraiser. There are various databases available, which can assist, in his final conclusion. Furthermore, close attention should be given to pending sales, which tend to form a leading indicator.

Correct completion of the 1004MC and proper analysis of the market forms the foundation for a reliable appraisal. Incorrect completion of the 1004MC form leads to other errors throughout the report. The next most common error is the incorrect completion of the Neighborhood Section. Many appraisers do not realize that the GSE's have “repurposed” the neighborhood section. This was particularly difficult for very experienced appraisers who for decades have completed the neighborhood section by reporting the data for the entire neighborhood. Makes sense, we would define the boundaries of the neighborhood and then we provided the trends of ALL the sales and listings within the subject neighborhood (remember that the subject neighborhood is generally not just the subject subdivision but many subdivisions within the defined boundaries). Now what the GSE's require is that the appraiser populate the fields in the neighborhood section with the data from the 1004MC and other databases used to arrive at his conclusions of the current market conditions. So not to state the obvious but if the appraiser checks the box “increasing” for sales price on the 1004MC form, he must check the box for “increasing” for market values in the neighborhood section. You would be amazed at how many times these boxes do not match.

Then the third part to correct completion of the appraisal with regards to the 1004MC is the “top of page two”. This term is familiar to appraisers, it is the first part of the sales comparison approach where the appraiser is asked to report the current number of active listings and their list price range, then the number of sold properties in the past twelve months and their respective sales price range. Again, these numbers must match those reported in the 1004MC. One very important factor to take into consideration is that all sales and listings are not included in the multiple listing service. This tends to peak as the market peaks, for various reasons homes sell “off market”. Also consider that most new construction is not multiple listed. So when valuing a new or newer property alternative databases may be relied upon over the standard MLS system. The take-away for real estate agents is how critical it is to analyze the subject market correctly. With or without a special form, agents and appraisers alike must be very careful in collecting the right data and thoroughly analyzing it.