

Call for back-up with housing ad questions



Columbia has stricter housing regulations

By JEAN MANEKE
MPA Legal Consultant



(Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000; jmaneke@manekelaw.com.)

The seminar that Rene Milam prepared for MPA members in November was a fabulous benefit from the Missouri Press Foundation to this organization, and every paper in the state needs to keep the guidelines she gave us at the top of the list for your advertising staffs.

The rules are somewhat complicated, and the downside risk of getting hit with a discrimination charge is so high. Basically, Milam focused on certain principles, including that advertising needs to be focused on describing the property, not describing the renter. The ad cannot suggest that families with children are not welcome or that the property is for a single person. Language cannot suggest that one type of renter is preferred or that the property is near a landmark that has special significance to a particular race of people or in a neighborhood (saying that it is "near a synagogue," for example) that would particularly appeal to a particular class of persons.

While all of these suggestions from Milam would seem to be subjective, and therefore difficult to spot in day-to-day life, a lot will depend on a careful reading of the ads each day by someone who has been sensitized to this issue. Clearly, ads need to be looked at to see if they appear to suggest a limitation for persons based upon race, color, religion, sex, handicap, family status, and national origin. On the other hand, ads that welcome any of these categories are fine. So an ad can say "handicapped accessible," or "great for families" or "all races welcome."

At the same time, Milam noted that there ARE instances where language can be used that might seem discriminatory on its face. For example, federal law does permit housing that qualifies as senior citizen housing to advertise that it is for the elderly. Such ads often will include language that it is for persons 55 and older. Such advertisers should be willing to state in writing to the newspaper that their advertising has qualified for this federal program.

Also, religious organizations are permitted to advertise housing which they own for rental to those in their faith. A person seeking a roommate is permitted to indicate a sexual preference (but not a racial preference). And persons in combined housing units (ie: duplexes, triples or quads only) where they occupy one of the units, are exempt from the Fair Housing Act in terms of their actions, although they are not free to advertise that they intend to discriminate in the rental of the housing.

Milam mentioned that some states and cities have separate laws that would also apply in housing advertising. Missouri has a state law that mimics the federal law, except that it adds the term "ancestry" to the list of protected classes, a term that is not defined in the statute.

Neither Kansas City or St. Louis appear to have housing discrimination ordinances. Springfield does not appear to have such an ordinance, either. However, the city of Columbia does have such an ordinance, and it is of interest because it includes the category of "sexual orientation" as a protected class. Therefore, nothing in an ad in Columbia can appear to discriminate on the basis of sexual orientation.

Finally, Milam reminded that ads can not include illustrations that appear to suggest a potential discriminatory orientation unless the logo or illustration is related to the name of the organization running the ad, and then the ad must contain a disclaimer that the organization does not discriminate in its housing.

Photos used in advertising overall must be representative of all classes and races of persons, although each ad in and of itself need not specifically include all classes and races.

These rules are difficult, and the hotline is here to assist you in any situation where your paper has a question about such a matter.

Finally, one other item of note. The Missouri Attorney General's office has been extremely proactive recently in regard to Sunshine Law matters. That office recently announced an agreement with city officials in Boonville who had been sued for violation of the Sunshine Law.

Allegations of sunshine law violations by members of the State Fair Board, meeting in closed session with a member of the AG's staff, brought a quick turn-around in which the board was advised that a vote taken in that closed session was going to have to be re-done in open session. And after the Associated Press was denied access to information on deadbeat parents who were having hunting and fishing licenses revoked for failure to pay child support, the AG's office stepped in and ran interference to make certain that information was being made public.

And in late November, the AG's office issued a formal opinion to the prosecuting attorney in Cape Girardeau County as to whether an advisory task force appointed by the school district superintendent constituted a public governmental body, subject to the Sunshine Law. The superintendent of the district is a public governmental body himself, so his appointed committee was also a public governmental body.

The opinion reiterates that a public governmental body can be made up of one member, and while a single-member body cannot have meetings, it can have records and can otherwise act in such a way that the Sunshine Law requirements are triggered.

This opinion is available online on the Missouri Attorney General's website under the "opinions" link and is opinion 129-2004.