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Best Practices for Lending Professionals

Fair lending is an integral part of fair housing. Mortgages serve as a gateway to homeownership and the accumulation of generational wealth for many Americans. Due to this, mortgage lenders play a pivotal role in ensuring equal access to housing opportunity for all. The Fair Housing Act prohibits discrimination based on race, color, national origin, religion, sex (including sexual orientation and gender identity), familial status (whether or not you have children in the home), and disability status in loans that are secured by residential real estate or that are for purchasing, constructing, improving, repairing or maintaining a dwelling. This includes mortgages, refinancing, home equity loans and home improvement loans. In North Dakota, discrimination based on age (over 40), receipt of public assistance, and marital status are also prohibited by state law.

Below are some questions for lenders that can help determine if your institution is complying with federal and state fair housing laws and furthering integration in our communities:

- When you hire new lending staff, do you promote cultural diversity that is reflective of the communities you serve, including nearby tribal communities?
- Do you offer cultural sensitivity training and other diversity, equity, and inclusion training for lending staff? Are staff educated in the various ways that different cultures across North Dakota approach savings, debt, and loans?
- Does management periodically review HMDA data, such as monitoring the volume, location, and composition of loan applications received, to determine if the number of applications received from minority groups in your service area is proportionate to their percentage of the population? If the amount of applications is found to be disproportionately low, are you working to determine why and to encourage more minorities to apply?
- Are your denial rates for minority applicants higher than other applicants, and if so, is there an explanation for the disparity that is non-discriminatory in nature?
- Do you train all lending staff on fair and equal lending and their responsibilities under the federal Fair Housing Act and the Equal Credit Opportunity Act?
- Do you have any review mechanisms through which unfair lending practices, policies, or procedures may be detected? If so, have you been able to determine the effectiveness of these mechanisms?
- Do you inform all potential borrowers, regardless of their race, ethnicity or the location of their potential home, about all your lending programs so they may decide which programs best fit their needs?
- Do your mortgage prequalifying and preapproval procedures encourage minority applicants and those unfamiliar with the process of buying a home to begin the mortgage process? Do you offer or refer potential applicants to homebuyer education programs for those who are unfamiliar with the mortgage lending process?
- Do your advertisements use a diverse array of models of differing races, genders, and ages? Do you regularly review your advertising to see if your choices of illustrations or models may unintentionally suggest a customer preference based on race or other protected classes?
- Do you review and analyze withdrawn applications to ensure that customers have not been unfairly counseled to withdraw?
- Are you as engaged in attracting minority loan applicants as you are in attracting white applicants?
- Do you have resources available and procedures in place to serve consumers who have limited English proficiency, or who may be deaf or blind? Are your staff trained in using these procedures, so that they are prepared to use them as needed?
- If a lender suspects that an appraisal could be discriminatory, does management have the property reappraised? This could help protect the financial institution as well, as the financial institution could also be held liable if an appraisal is ever found to violate fair housing law.

- Are you familiar with the practices of the real estate agents, mortgage brokers, and appraisers with whom you do business? Are you aware of the extent of fair housing training they have received?
- Do you encourage the real estate brokers and appraisers with whom you do business to be constructively active in minority communities, including tribal communities?
- Does your compensation structure for lending staff encourage employees to take the time needed to work with applicants seeking a small mortgage amount or those unfamiliar with the home-buying process?
- Do you have Equal Opportunity Lending signs and Fair Housing signs posted in your offices where customers can easily see them?
- Are you fairly considering non-traditional sources of income, such as those who work for Doordash or Uber, in whether someone is qualified for a loan?
- Are all loan production staff aware of all of the alternative loan products your institution offers to applicants who do not meet traditional underwriting guidelines?
- Do you understand the potential fair housing implications of the algorithms you rely on for underwriting decisions? If a financial system is using an algorithm that is later found to be discriminatory, the institution could be held liable.
- Do you use the same underwriting standards, such as minimum credit scores and debt to income ratios, for all customers? If you're flexible with these underwriting standards, are you consistently flexible across the board with all customers, regardless of their protected characteristics? Have you considered developing a checklist of all of the factors you are willing to consider, in order to ensure that all allowable compensating factors are requested of the borrower?
- Do you compare all denied applications to other applications that did not meet the institution's stated loan policy but were approved anyway based on compensating factors? This can help ensure that compensating factors are handled fairly and consistently among different racial and ethnic groups.

Things to look out for that may be considered unequal treatment based on protected class status that could violate the Fair Housing Act:

- ❖ Steering minority mortgage applicants to predatory, sub-prime loans or to federally insured programs, such as FHA loans, because of an assumption that minorities are less creditworthy.
- ❖ Minimum loan amounts that would unfairly block lower-income customers from being able to buy a home in a less expensive area.
- ❖ Mortgage lending practices that include the location of property as a risk factor.
- ❖ Refusing to provide mortgages to a person on parental leave.
- ❖ Providing a different customer service experience to a customer because they are a member of a protected class.
- ❖ Refusing to consider a mortgage applicant's disability-related income, such as SSI or SSDI.
- ❖ Failing to provide information or services or providing different information or services regarding any aspect of the lending process, including credit availability, application procedures, or lending standards, because of a person's protected class status.
- ❖ Varying the terms of credit offered, including the amount, interest rate, duration, or type of mortgage loan because of a person's protected class status.
- ❖ Using different standards to evaluate collateral, or refusing collateral outright because the property is located on a tribal reservation.



The mission of the High Plains Fair Housing Center is to strengthen communities and to ensure equal access to fair housing in the region through training, education, enforcement, and advocacy.

For more information, please contact:

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Sources

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