NAR Committee:

Fair Housing Policy Committee

What is the fundamental issue?

While the federal Fair Housing Act does not include sexual orientation or gender identity as protected classes, the U.S. Supreme Court held in *Bostock v. Clayton County* (2019) that discrimination "on the basis of sex" encompasses discrimination based on sexual orientation and gender identity under the Civil Rights Act of 1964. Some federal courts have begun applying that interpretation to the Fair Housing Act, as well. On January 20, 2021, President Biden issued Executive Order 13988, ordering all federal agencies that enforce civil rights laws, including the Fair Housing Act, to adopt the Bostock interpretation of "sex." The U.S. Department of Housing and Urban Development announced shortly after that state and local civil rights agencies receiving HUD assistance would be required to adopt this interpretation.

I am a real estate professional. What does this mean for my business?

REALTORS® are ethically committed to providing equal professional service without discrimination based on race, color, religion, sex, familial status, handicap, sexual orientation, gender identity or national origin. Discrimination in the transaction limits the property rights of sellers and buyers and the ability of the REALTOR® to conduct business. The Fair Housing Act has provided a level playing field that protects housing providers and consumers from the adverse impacts of discrimination based on race, color, religion, sex, familial status and national origin.

NAR Policy:

In 2009 and in 2013, REALTORS® adopted policy affirming that the right to buy or rent housing of choice should not be abridged due to a homeseeker's sexual orientation or gender identity. Our commitment to equal housing opportunity is enshrined in NAR's Code of Ethics, which commits REALTORS® to provide equal professional service to all without regard to sexual orientation or gender identity, in addition to the other prohibited bases for discrimination under the Fair Housing Act.

Opposition Arguments:

Some lawmakers are opposed to expanding the protections under the Fair Housing Act.

Legislative/Regulatory Status/Outlook

At the federal level, NAR supports the Equality Act and the Fair and Equal Housing Act. Both would provide clear and consistent non-discrimination protections for LGBTQ+ people in housing by adding "sexual orientation" and "gender identity" as protected characteristics under the Fair Housing Act. Twenty-three

states plus Washington, D.C., Guam, and Puerto Rico outlaw discrimination based on sexual orientation. Twenty-two states plus Washington, D.C., outlaw discrimination based on gender identity or expression. Eighteen states and four territories have no explicit prohibitions for discrimination based on sexual orientation or gender identity in state law. The Equality Act (H.R. 15 and S. 5) was reintroduced in the 118th Congress by Rep. Mark Takano (D-CA) and by Sens. Jeff Merkley (D-OR), Tammy Baldwin (D-WI), and Cory Booker (D-NJ). The Fair and Equal Housing Act (H.R. 4439) was introduced by Rep. Brad Schneider (D-IL).

Current Legislation/Regulation (bill number or regulation)

Read more about the Fair and Equal Housing Act of 2024 here.

Read more about the Equality Act here.

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