

June 12, 2021

Caroline J. Downey
General Counsel
NYS Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, NY, 10458

Dear Ms. Downey,

The New York State Association of REALTORS® (NYSAR), is the largest real estate trade association in New York state representing over 60,000 real estate licensees. NYSAR submits the following comments for the proposed regulation adding 9 NYCRR §466.15 addressing the Notice of Tenants' Rights to Reasonable Accommodations/Modifications for Persons with Disabilities (Notice).

NYSAR supports educating the public about their rights under Fair Housing laws and NYS Human Rights Laws and offers the following comments to improve the proposed regulation.

Requirement of Notice

The proposed requirements set forth in section (d)(5), "Notice with regard to available housing accommodations", are extremely burdensome for real estate licensees who advertise using paper-based mediums including newspapers, periodicals and other paper-based or "hard copy" mediums. The text of the notice is lengthy, and the regulation requires that the notice "Must be included within such communication, or by providing the notice in an accompanying document". If only allowed to be provided to the public in paper form this requirement would be difficult to achieve in several advertising formats including paper advertisements, applications, leases etc. where the notice must be fully reproduced as compared to providing a link to the notice for electronic mediums. Paper-based or "hard-copy" mediums will have to reproduce the notice in their publications and the notice will occupy more space than the advertisement itself. Some examples of advertisements where compliance would be either impossible or extremely challenging are as follows:

1. Billboards. Would the notice be required to be on all billboards if advertising rental units?
2. For rent advertising including signs.
3. Classified ads or other small advertisements (1/4 page, 1/8 page etc.) where even if the real estate licensee wanted to comply, the space available makes compliance impossible.
4. Real estate periodicals (Homes or rental guides sometimes seen in grocery stores) would be required to publish the notice with the names of the landlord/property manager for each rental advertisement.

Requiring the form to contain contact information for the landlord or property manager may be confusing when the form is provided by a real estate licensee that is showing a client numerous properties. If numerous properties are shown, must the real estate licensee deliver a new form for each property identifying the landlord/property manager, if known? If a licensee is showing a property or

properties and is unaware of the identity of the landlord/property manager or other individual responsible for reasonable accommodation/modification requests would the omission of that information be a violation? While this information may be appropriate for properties shown by the landlord or property manager, this information is not readily available to real estate licensees. NYSAR suggests removing the obligation of licensees to provide the name of the landlord or property owner on the form as this information is already required to be provided to tenants within 30 days of tenancy per the regulation.

Delivery of Notice

The delivery requirements of the notice are much different than the “Housing and Anti-Discrimination Disclosure Form” (HADDFFN) required under 19 NYCRR 175.28(b) “The disclosure notice required pursuant to paragraph (a) of this section, may be provided to a prospective purchaser, tenant, seller, or landlord by any of the following means: email, text, electronic messaging system, facsimile, or hardcopy. An electronic communication containing a link to the disclosure notice required pursuant to paragraph (a) of this section shall be permissible, provided the communication also contains text to inform the prospective purchaser, tenant, seller, or landlord that the link contains information regarding the New York State Human Rights Law. Oral disclosure does not satisfy the requirements imposed by this section.”

Having the same delivery requirement for each notice would be less confusing to licensees and consumers and will ensure that consumers receive the notice at the same time as the HADDFF at one point. The HADDFFN is provided by real estate licensees to all consumers at “first substantive contact”. NYSAR strongly recommends that the same standard of “first substantive contact” be applied to a real estate licensees’ delivery of the Reasonable Accommodations/Modifications Notice as well.

Delivery via email under 19 NYCRR 175.28(b) may be done “containing a link to the disclosure notice required pursuant to paragraph (a) of this section shall be permissible, provided the communication also contains text to inform the prospective purchaser, tenant, seller, or landlord that the link contains information regarding the New York State Human Rights Law.” whereas the Reasonable Accommodation/Modification Form under d(5)(iv) requires delivery via email to “include the notice, either in the body of the email or in an attachment”. Why would a link with descriptive text be acceptable in this instance as well, as both are notifying consumers about their rights under NYS Fair Housing and Human Rights Law?

With so many forms required to be provided to consumers in the process of a real estate transaction the renting public experiences a tremendous amount of form fatigue. NYSAR strongly recommends that the information set forth under the proposed regulation be included on the (HADDFFN) required under 19 NYCRR §175.28(b) either in shortened form or by providing a link to the notice.

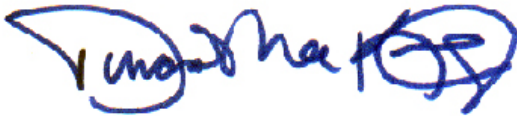
Delivery of the Notice Numerous Times in a Transaction

Per the proposed regulation, consumers will receive this document numerous times during the transaction as it is required in all aforementioned items in (d)(5)(i). From a public education standpoint, the HADDFN is only provided once at first substantive contact whereas the Reasonable Accommodation/Modification Notice will be provided multiple times to a prospective tenant before and after signing the lease. NYSAR suggests streamlining this delivery requirement to a single point in time for each prospective tenant.

NYSAR supports efforts to educate consumers on their rights under Federal, State and Local laws addressing discrimination in the sale or rental of real property. If adopted, NYSAR's proposals will ensure that the intent of the statute and proposed regulations are met while reducing consumer confusion and ensure that the HADDFN is not diminished as a result.

We thank you for your time and consideration of these comments.

Sincerely,



Duncan R. MacKenzie