



LEGAL HOTLINE Q&A

FROM GET THE FACTS, December 12, 2023

Question:

Discrimination in housing based on marital status is illegal in Washington. The Washington State Law Against Discrimination (WLAD), found in the Revised Code of Washington (RCW) 49.60.222, makes it illegal to refuse to engage in a real estate transaction or provide different terms, conditions or privileges to a tenant, or prospective tenant, because of the tenant's marital status. And yet our purchase and sale agreement on page one asks the status of the parties purchasing and married persons is an option. Though this is meant to identify the purchasing parties for lender and title, could this information be used for discriminatory purposes?

Answer:

Any information could be used for discriminatory purposes. The name of the buyer, also revealed on the PSA, could be used for discriminatory purposes. That does not mean that the information is not important for inclusion in the contract. Moreover, the mere fact that information is included does not mean that seller is authorized to use the information for discriminatory purposes. Said differently, it is important to reveal the name of the buyer and the buyer's marital status in the PSA and, it is unlawful for seller to use that information for discriminatory purposes.

It is important to include buyer's marital status in a purchase agreement particularly when buyer relies on financing to close the transaction. An institutional lender will not fund a loan unless the buyer provides title insurance to the lender, insuring the deed of trust buyer will execute at closing to create lender's security in the loan. Title insurance will not issue if the buyer is married and buyer's spouse does not either sign the deed of trust or sign a quit claim deed to the property. What happens too often is that a married buyer fails to disclose the marriage but the marriage is discovered by the title company when the title company is determining whether it will issue title insurance for the deed of trust. If the buyer is still married but the buyer's spouse will not sign a quit claim deed, then the title company will not insure the deed of trust and the loan will not fund. The sale will fail and seller will be left at the closing table with a failed transaction.



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Answer Continued:

Listing broker and seller must know the marital status of a buyer who is relying on financing so that seller can impose an obligation on the buyer who is purchasing in buyer's separate estate, to provide a quit claim deed from buyer's spouse immediately after execution of the PSA. If buyer's marital status is concealed from seller and listing broker, the chances of a seller experiencing a sale fail increase.

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