



**CACHE VALLEY**   
ASSOCIATION OF REALTORS® REALTOR®

## MEMORANDUM

---

TO: REALTORS® and Mortgage Affiliate Members

FROM: Cache Valley Association of REALTORS®

DATE: February 14, 2021

RE: Buyer “Love Letters”

---

As a Realtor® Association Exec, agents ask me all the time about buyer “love” letters. Buyer love letters are a tactic used by some buyers in an attempt to stand out to a seller, especially in hot markets with low inventory and bidding wars. Seemingly harmless, these letters actually raise fair housing concerns, and could open real estate professionals and their clients to fair housing violations.

More than ever before, buyers write “love letters” to describe the many reasons why the seller should “pick them.” While this may seem harmless, these letters can actually pose fair housing risks because they often contain personal information and reveal characteristics of the buyer, such as race, religion, or familial status, which could then be used, knowingly or through unconscious bias, as an unlawful basis for a seller’s decision to accept or reject an offer.

Consider where a potential buyer writes to the seller that they can picture their children running down the stairs on Christmas morning for years to come in the house. This statement not only reveals the potential buyer’s familial status, but also their religion, both of which are protected characteristics under fair housing laws. Using protected characteristics as a basis to accept or reject an offer, as opposed to price and terms, would violate the Fair Housing Act.

The Fair Housing Act provides, in part, that sellers cannot refuse to sell a house based on race, religion, color, national origin, sex, family status or disability. The fine for a first violation of the fair housing law is \$10,000. The fines increase substantially after that, not to mention any further civil charges or action by your state real estate commission. In the end, a seller may have just picked the highest offer with best terms. But if love letters were involved in that choice, and discrimination was suspected, would you want to have to go to court to prove otherwise?

Before the next time you are faced with a buyer love letter, consider these best practices to protect yourselves and your clients from fair housing liability:

- Educate your clients about the fair housing laws and the pitfalls of buyer love letters.
- Inform your clients that you will not deliver buyer love letters and advise others that no buyer love letters will be accepted as part of the MLS listing.
- Remind your clients that their decision to accept or reject an offer should be based on objective criteria only.
- If your client insists on drafting a buyer love letter, do not help your client draft or deliver it.
- Avoid reading any love letter drafted or received by your client.
- Document all offers received and the seller's objective reason for accepting an offer.

Being the month of "love", I thought it fitting to revisit the controversial topic of "love letters" and clue our mortgage lender friends into why more brokerages are banning the practice of "love letters" and advising their sellers NOT to read them (and buyers not to write them). The risk is HIGH. As real estate professionals (and team players in a real estate transaction), the goal should be to mitigate risk when and where we can.

Sincerely,

Emily Merkley  
CEO, Cache Valley Association of Realtors®