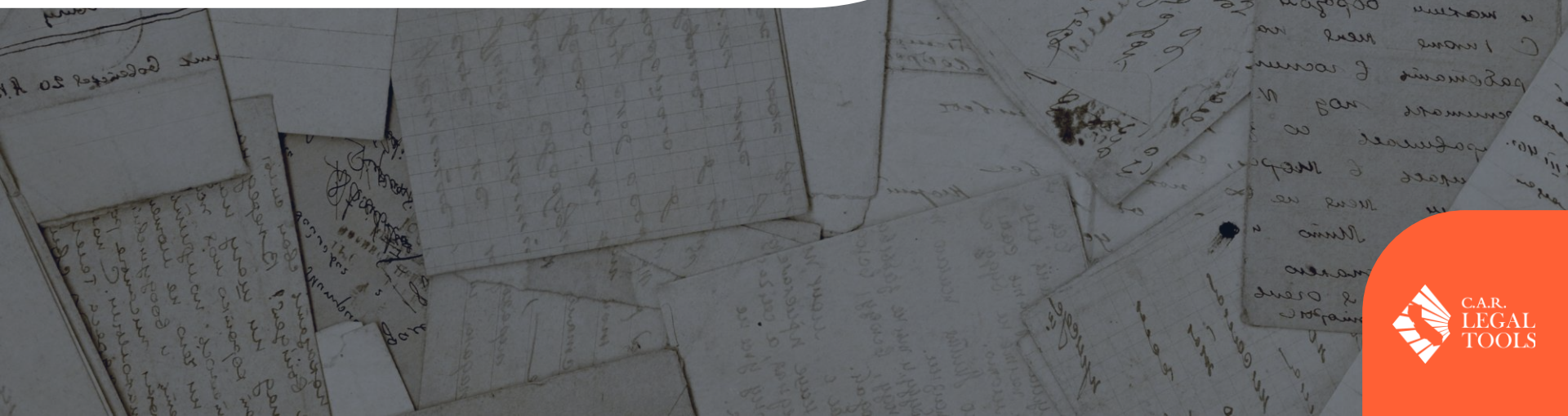


Buyer Letters Accompanying Offers: Potential for Unconscious or Implicit Bias



Buyer Interest Letters

- Also known as “buyer love letters” or just “buyer letters”
- Personal letters written by buyers, often with photos attached, in the hopes that a buyer’s offer will stand out among many that a seller may have received



Potential Problems with Buyer Letters

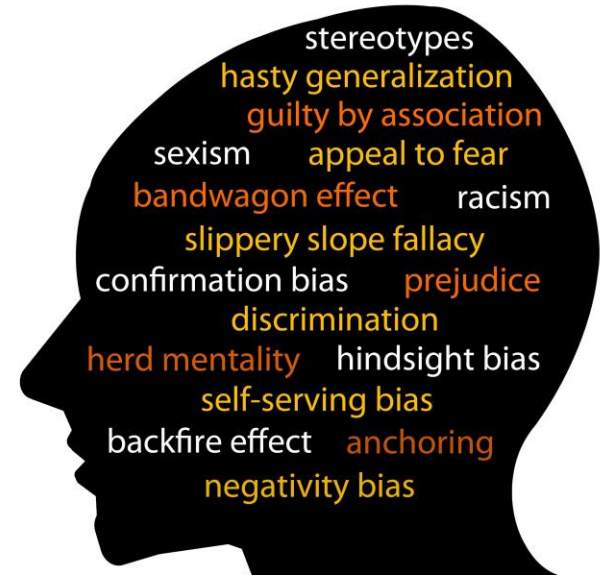


- Often reveal information about a buyer (such as protected class or characteristic) that may not be considered by the seller
- Protected class and characteristics might be considered inadvertently due to unconscious or implicit bias

What is Unconscious or Implicit Bias?

- Assumptions made based upon an individual belonging to a group or having a characteristic
- Thoughts and images that may come to mind based upon your prior experiences or advertising and media messages

UNCONSCIOUS BIASES



Becoming Aware of Unconscious or Implicit Bias

Exercise: Close your eyes. Imagine you are entering a property for a viewing. What do you think of when you see the following?

- A flag flying out front
- A sign asking to leave shoes at the front door
- A political sign
- A Prius. A SUV. A beat-up Corolla.
- A ramp leading to the door
- A wedding photo

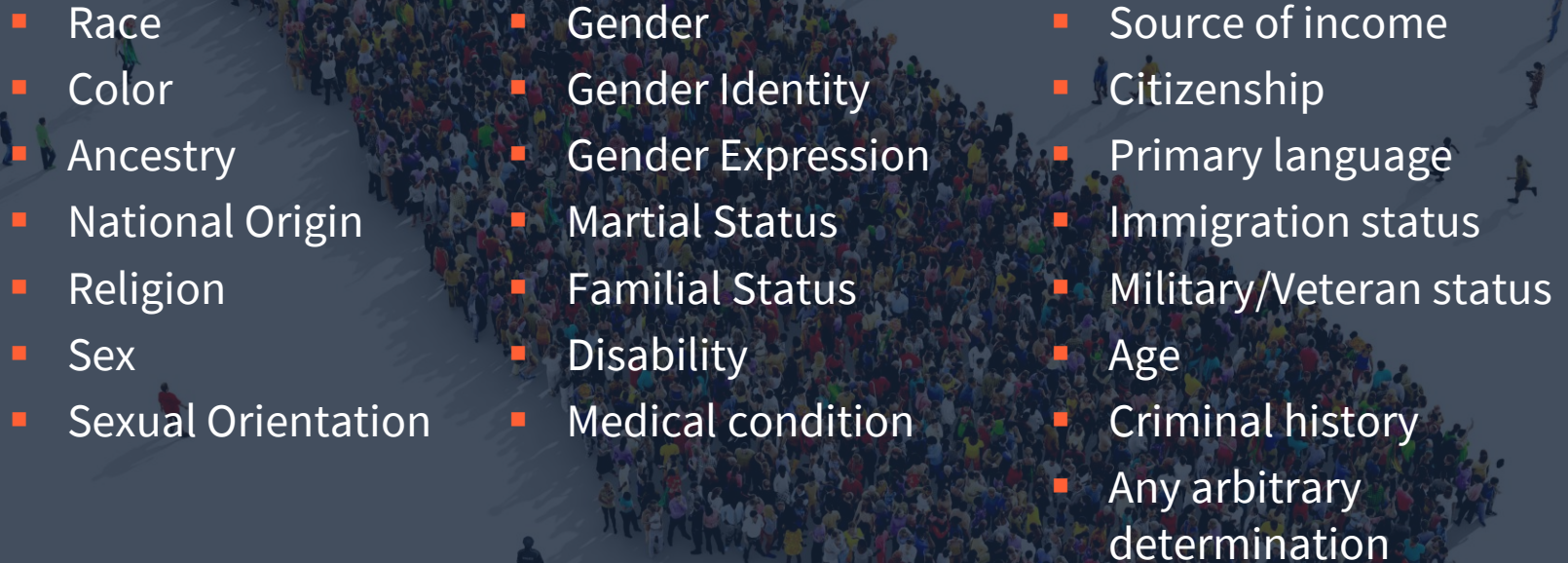
These thoughts and images are your unconscious and implicit bias.

Everyone has unconscious and implicit bias, both positive and negative.

Awareness of unconscious and implicit bias is important in a real estate transaction because assumptions based on protected classes or characteristics could lead to unlawful discrimination.



Can You Name Protected Classes & Characteristics in California?

- 
- Race
 - Color
 - Ancestry
 - National Origin
 - Religion
 - Sex
 - Sexual Orientation
 - Gender
 - Gender Identity
 - Gender Expression
 - Martial Status
 - Familial Status
 - Disability
 - Medical condition
 - Source of income
 - Citizenship
 - Primary language
 - Immigration status
 - Military/Veteran status
 - Age
 - Criminal history
 - Any arbitrary determination

Why Would a Seller Want to Discourage Buyer Letters?

- To avoid the appearance of impropriety
- To avoid potential liability associated with unlawful discrimination



Why would a real estate licensee want to avoid buyer letters?

- To avoid the appearance of impropriety
- To avoid the potential claim or participating in unlawful discrimination



Discouraging Buyer Letters

- Seller may provide written instruction not to present buyer letters or offers that are accompanied by buyer letters, such as C.A.R. Form RLA, paragraph 10C(2)(A)
- Include within MLS remarks that buyer letters or offers with buyer letters will not be presented



What If My Buyer Wants To Write a Letter To Be Submitted With An Offer?

- First, make sure the letter is not prohibited within the MLS remarks
- If so, inform buyer
- If not prohibited in MLS:
- Advise buyer to focus on matters that do not involve any protected class or characteristic
- Recommend that letter be reviewed by broker or counsel



Broker Policy on Buyer Letters

- If brokerage has listing:
 - <Insert policy here>
- If brokerage represents a buyer:
 - <Insert policy here>
- Any brokerage policy should be reviewed with client



Additional Resources

- <https://www.nar.realtor/newsroom/nar-introduces-implicit-bias-training-for-realtor-members-associations>
- <https://www.nar.realtor/fair-housing>
 - Has links to ACT and printable copy of Fair Housing Declaration
- <https://store.realtor.org/product/multimedia/housing-point-fair-housing-act-video-download>
 - Free video, pocket guide, handbook on FHA to NAR members
- <https://www.nar.realtor/thats-who-we-r/fair-housing-assets>
 - Free downloadable Fair Housing Assets
 - 30 sec video clip, print ads, animated social ads, Zoom backgrounds, billboard, poster
- <https://projects.newsday.com/long-island/real-estate-agents-investigation>
- <https://kinder.rice.edu/2018/03/16/study-how-houstons-appraisal-industry-reinforces-racial-inequality>
- <https://www.cnbc.com/2020/08/19/lenders-deny-mortgages-for-blacks-at-a-rate-80percent-higher-than-whites.html>